

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF FINANCIAL ASSISTANCE**

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**Request for Proposal
Notice to Prospective Respondents**

October 22, 2015

You are invited to review and respond to this Request for Proposal (RFP) entitled RFP # 15-10: *Office of Migrant Services (OMS), San Joaquin County Migrant Centers*. In submitting your bid, you must comply with these instructions.

In the opinion of the Department of Housing and Community Development (Department), this Request for Proposal is complete and without need of explanation. However, if you have questions, or should you need any clarifying information, the contact person for this RFP is:

Rosemary Avila, OMS Program Manager
Department of Housing and Community Development
Office of Migrant Services
(916) 263-1186

Please note that no *verbal* information given will be binding upon the State unless such information is issued in writing as an official addendum.

Laura A. Whittall-Scherfee
Deputy Director

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1. Background

The mission of the California Department of Housing and Community Development (Department) is to provide leadership, policies and programs to preserve and expand safe and affordable housing opportunities and promote strong communities for all Californians. Pursuant to Chapter 8.5 (commencing with Section 50710) of Part 2, Division 31, of the Health and Safety Code ("Statutes"), the Department is responsible for the administration of a program in order to provide housing and housing-related services for migratory farmworkers and their families in California.

In accordance with the Statutes and the Office of Migrant Services (OMS) Program Regulations set forth in California Code of Regulations ("CCR") Title 25, Division 1, Chapter 7, Subchapter 7, commencing with Section 7600 ("Program Regulations"), the Department shall provide housing units and related facilities in San Joaquin County, at the following locations:

- 1) Artesi II Migrant Center, 777 West Mathews Road, French Camp, CA 95231 – 95 units
- 2) Artesi III Migrant Center, 333 West Mathews Road, French Camp, CA 95231 – 97 units
- 3) Harney Lane Migrant Center, 14320 East Harney Lane, Lodi, CA 95240 – 97 units

The purpose of this solicitation is to seek (a) highly qualified Contractor(s) to provide operations and maintenance services ("Work") which are further described as all administrative, fiscal and management services; employment of staff; and purchasing, rental or use of supplies and materials as needed for the stated three (3) Migrant Centers (Centers), pursuant to the terms and conditions of this RFP and the resulting Standard Agreement(s).

2. Prerequisites

Proposals will only be considered from Organizations that meet the following prerequisites:

- Must have a minimum of two (2) years demonstrated experience in the management of affordable multi-family properties in California.
- Must have a minimum of two (2) years demonstrated experience working with local, state and/or federal government, including contracting and fiscal reporting.
- Must be a housing authority, or other appropriate local, public or private non-profit agency.

3. RFP Schedule of Events

The Department reserves the right to: amend, withdraw, or cancel this RFP; reject any or all responses to this RFP at any time prior to Standard Agreement execution; and request or obtain additional information about any and all submittals. It is the goal of the Department to select and retain a Contractor by **January 1, 2016**. In preparation for that action, the following schedule of events has been prepared:

Item	Date
RFP Released	10/22/2015
Preliminary Walk Through	10/28/2015
Proposals Due	11/05/2015
Notification of Agencies Selected for Interview	11/13/2015
Interviews	11/16-17/2015
Notice of Intent to Award	11/20/2015
Standard Agreement Execution	12/01/2015
Contractor Start Date	01/01/2016

4. Term of Service and Compensation

The initial term of the Standard Agreement(s) is from January 1, 2016 through June 30, 2017. Standard Agreement(s) will be renewed every two (2) years hereafter, subject to funding availability.

The awarded Contractor(s) will receive 10% of the annual operating budget of each migrant center, as compensation for the center operation and maintenance.

5. Scope of Work

The Contractor(s) selected for this program shall be responsible for performing the following tasks at each center:

General Center Operations

- “On-Season”: Operate Centers for a minimum of 180 days of the calendar year, typically beginning in May and ending in October. With Department approval, the season may be extended multiple times pre and post season by a minimum of two weeks each time.
- “Off-Season”: With Department approval, the Center may be available for other uses.
- Maintain the Center year round (i.e.: at all times) in a safe and sanitary condition and in accordance with standards prescribed by State law, and United States Department of Agriculture – Rural Development (USDA-RD), where applicable. This includes routine cleaning of common areas, grounds keeping, and minor rehabilitation, as needed.
- Identify and address emergency situations immediately and provide notification to the Department as soon as possible.
- Facilitate the execution of rental agreements, and evictions of non-paying residents or residents who violate the terms of the rental agreement, as necessary.
- Adhere to residency requirements as described in Exhibit A - OMS Statutes and Exhibit B – OMS Regulations.
- Facilitate and attend onsite USDA-RD required biannual inspections, where applicable.

Center Personnel Requirements

In order to maintain Center continuity, it is the Department's recommendation that the Contractor retain current staff.

- Center Office hours of operation: 7am – 4pm, Monday through Friday
- One Center Manager must live on site, be bilingual in the Spanish language, work full time (40 hours a week), and be available on weekends, after hours and for emergencies. Maintenance experience is preferred as well as experience in all trades such as electrical, plumbing, carpentry, etc.
- One Maintenance Staff person must have prior maintenance experience, be bilingual in the Spanish language, and work full time.
- One Office Clerk must work full time seasonal during office hours and be bilingual in the Spanish language.
- Contractor must provide medical, dental and vision benefits, retirement benefits, workers compensation, paid vacation, paid holidays and paid sick leave for all full time staff.

Day Care Services

In order to maintain continuity of services, it is the Department's recommendation to continue using the current Day Care Service Contractor.

- Provide day care services using the onsite day care facility. Services are currently contracted with an outside agency.
- Priority must be given to the migrant center residents for service utilization; and secondarily to outside members of the community.

Other Onsite Services

In order to maintain center continuity, it is the Department's recommendation to continue using the current service contractors.

- Provide support to the Migrant Education program (an independent educational organization) using the onsite Migrant Education building. The program is currently provided by San Joaquin County.
- Provide laundry services using the onsite laundry facility. Services are currently provided by W.A.S.H. via contract.

Financial Management

- Open and maintain separate bank accounts for each Center for each of the following purposes and using the following titles:
 - **Rental Income:** Contractor shall collect, when due, rents, charges, and other amounts receivable in connection with the management and operation of the center in accordance with rates established by the Department. Such receipts collected shall be remitted to the Department via check by the 10th of each month.
 - **Security Deposits:** Contractor shall collect, deposit and disburse security deposits in compliance with State Law.
 - **General Operations:** Contractor shall use this account for daily operations and maintenance of the migrant center.
 - **Operational Reserves:** These funds are comprised of excess funds provided through the annual budget. The cumulative balance of the account cannot

- exceed 10% of the annual operating budget. These funds can only be used, upon Department approval, for capital needs improvements/repairs.
- **RD Reserves (where applicable):** funds are deposited annually from the annual operating budget. The cumulative balance of the account must maintain a minimum of \$1,000/unit. These funds can only be used, upon RD approval, for capital needs improvements/repairs.
 - **CARE Account:** funds are a result of the Public Utilities Commission (PUC) program which offers rebates for low income families on the utility bills. Funds can only be used on items that benefit the tenants. Tenants can have input on the proposed uses.
 - **Water Grant Reserve (where applicable):** this was a grant provided through USDA and can only be used for rehabilitation of the water systems.
 - Provide monthly requests for reimbursement (invoices) of prior month expenses (arrears) along with supporting documentation to include: signed timesheets, reserve accounts, tenant security deposit account, and CARE account bank statements, rental income reports, itemized receipts, invoices and any other supporting documentation required by the Department.
 - Every two (2) years, develop accurate and concise operating budgets including costs for general maintenance, repair and compensation, and provide written justifications, as necessary.

Reporting Requirements

- Contractor shall provide the Department with written progress reports, Demographic Input form, Monthly Occupancy Report, annual financial audit reports, OMS Request for Disposal of Property, inventory of all OMS-owned equipment, Smog inspection report (as needed), and verification of annual opening and closing dates, at the times and in the format required by the Department.
- At all reasonable times, representatives of the Department shall have access to the Migrant Center premises for the purpose of ensuring compliance.
- The Contractor shall carry, maintain, and enforce general liability and property insurance in the amounts not less than \$1,000,000.00 per occurrence, and auto liability insurance. All general liability must name the State of California as Additional Insured. All property coverage must name the State of California as Loss Payee with a maximum \$25,000.00 deductible per occurrence.

6. Proposal Content

Proposals shall be prepared in such a way as to provide straightforward, concise delineation of capabilities to satisfy the requirements of this RFP, and shall adhere to the following format for organization and content. Proposals must be typed and arranged/divided in the following sequence to facilitate evaluation:

- **Cover Letter**
The cover letter shall: 1) confirm that all elements of the RFP have been reviewed and understood; 2) include a statement of intent to perform the services as outlined

and which Center the proposal is referencing, if not all three; 3) express Organization's willingness to enter into an agreement under the terms and conditions prescribed by this RFP and in Exhibit C – Sample Standard Agreement; 4) include a brief summary of the Organization's qualifications; and 5) identify a single person (and their contact information) for possible contact during the RFP review process. The cover letter shall be limited to two (2) pages.

- **Statement of Understanding and Management Plan**

This section should demonstrate an understanding of the Scope of Work and the needs of the migrant farmworker population. Respondents should provide a detailed management plan describing their approach to performing the services requested in this RFP.

- **Organization Information**

This section shall include relevant Organization/Agency information including the address and telephone number for the Organization's main office. Each Organization shall identify itself as to the type of entity (local government, private or public, non-profit, etc.) Members of the organization's professional team should be identified by name and title and should include contact phone numbers. Include also major subcontractors (if any) and their degree of involvement in your Organization.

- **Qualifications and Experience**

This section shall include detailed summaries describing your Organization's experience with the operation and maintenance of affordable housing units, working with local, State and/or Federal government in contracting and fiscal reporting, and administering other programs related to the needs of migrant families. Organization shall also provide the number of years in business within its specific field and under the current business name and/or license, evidence of its ability to hire bilingual staff and work with a diverse clientele, and evidence of experience administering building repairs and routine maintenance including grounds keeping, security services, 24-hour emergency maintenance services and eviction services.

- **References**

Please provide at least three (3) current references of clients for whom property management services have been performed recently (within the past five (5) years) that are comparable in quality and scope to that specified in this RFP. Photographs and addresses of each of the properties referenced shall be included as well. The references shall include names, addresses and telephone numbers of the clients for whom prior work was performed and include an explanation of the services provided.

- **Supporting Documentation**

- Please submit calendar year 2013 and calendar year 2014 financial audits, findings (if any), and clearance letters.
- Please submit a list of recent (within the past 10 years) administrative or civil settlements, decisions, or judgements against the Organization and their status.

- **Reporting and Systems Capabilities:**

Please provide the following information regarding the Organization's reporting and system capabilities:

- A list and brief description of the financial and operational reports that would be made available to the Department.
- A copy of actual monthly financial and operational reports for a similar property managed by the Organization within the last five years. Include summary reports and table of contents for detailed schedules that are typically attached. These reports may be redacted to delete property names and identifiers for confidentiality purposes.
- A copy of a marketing plan for a comparable property and several examples of marketing materials for an entire property, as well as single buildings targeted to particular type of tenants.
- A summary of quality control systems and procedures the Organization has in place that help ensure high-quality tenant services, accurate lease and financial tracking and effective recommendations for ongoing improvement.
- A summary of the technologies the Organization utilizes that ensure an effective and cost-efficient management operation. Please include all software and database programs utilized by the Organization.

- **Other Requirements**

- Certificate of Insurance
- Resolution

7. **Instructions and Schedule for Submittal of Proposals**

A mandatory preliminary walk through is scheduled for the following times, dates and locations for the purpose of touring the Migrant Centers requiring services and discussing any questions or concerns regarding this RFP.

Migrant Name	Center	Location	Date and Time
Artesi II Migrant Center		777 West Mathews Road French Camp, CA 95231	10/28/2015, 10:00 a.m.
Artesi III Migrant Center		333 West Mathews Road, French Camp, CA 95231	10/28/2015, 11:00 a.m.
Harney Lane Migrant Center		14320 East Harney Lane, Lodi, CA 95240	10/28/2015, 2:00 p.m.

All proposals shall be signed and sealed by a duly authorized representative of the Organization. The name, mailing address, and e-mail address of the individual executing the proposal must be provided.

Two (2) copies of the Organization's proposal must be received before 3:00 p.m. on Thursday, November 5, 2015. Proposals must be submitted to:

CA Department of Housing and Community Development
Office of Migrant Services
2020 W. El Camino Avenue, Suite 500
Sacramento, CA 95833
RE: RFP# 15-10: OMS, San Joaquin County Migrant Centers
ATTN: Rosemary Avila, OMS Program Manager

Late or emailed proposals will not be accepted.

The Department reserves the right to reject any and all proposals for any reason, and to waive information and minor irregularities in any proposal received.

Costs incurred for developing the proposal and in anticipation of award of the agreement are entirely the responsibility of the Organization and shall not be charged to the State of California or Department.

All proposals submitted in response to this RFP will become property of the State of California, and will be regarded as public records under the California Public Records Act (Government Code Section 6250 et seq.) and subject to review by the public.

8. Evaluation Process and Scoring Criteria

The proposals will be evaluated by Department representatives from relevant Divisions. Each proposal will be evaluated using the following criteria:

- A) Organization's Qualifications and Experience (maximum 200 points)
 - Experience with the operation and maintenance of affordable housing units. (maximum 40 points)
 - Experience working with local, State and/or Federal government in contracting and fiscal reporting. (maximum 40 points)
 - Experience administering other programs related to the needs of migrant families, including but not limited to day care services, adult education programs, English as a second language programs, after school programs, tutoring programs, etc. (maximum 40 points)
 - Quality, clarity, and appropriateness of management plan (maximum 40 points)
 - Quality, clarity, and appropriateness of sample financial and operational reports, and marketing plan. (maximum 40 points)
- B) References (maximum 100 points)
 - Operation and maintenance performance (maximum 40 points)
 - Financial management performance (maximum 40 points)
 - Reporting performance (maximum 20 points)

The most qualified Organization(s) will be asked to participate in an oral interview to discuss in greater detail the content of their proposal, as well as their financial management practices. The oral interview will be evaluated using the following criteria:

A) Oral Interview (maximum 100 points)

- Financial management questions and responses (maximum 50 points)
- Situational questions and responses (maximum 40 points)
- Suitability (maximum 10 points)

Total Points Possible: 400

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1. Office of Migrant Services Statute

HEALTH AND SAFETY CODE SECTION 50710-50715

50710. The Director of Housing and Community Development may contract with school districts, housing authorities, health agencies, and other appropriate local public and private nonprofit agencies, for the procurement, or construction of housing or shelter and to obtain services for migratory agricultural workers in the fields of education and sanitation, to obtain day care services for the children of those workers, and the director may adopt regulations as the director deems necessary in order to provide that housing service. Notwithstanding any other provision of law, contracts made pursuant to this chapter are deemed to be for local assistance.

50710.1. (a) If all the development costs of any migrant farm labor center assisted pursuant to this chapter are provided by federal, state, or local grants, and if inadequate funds are available from any federal, state, or local service to write-down operating costs, the department may approve rents for that center that are in excess of rents charged in other centers assisted by the Office of Migrant Services. However, notwithstanding any other provision of law, commencing with the 2006 growing season, the department shall not increase rents for residents of any facility assisted by the Office of Migrant Services to a level that exceeds 30 percent of the average annualized household incomes of residents of the facility without specific legislative authorization. Prior to approving these rents, the department shall consider the adequacy of evidence presented by the entity operating the center that the rents reimburse actual, reasonable, and necessary costs of operation.

(b) At the end of each fiscal year, any entity operating a migrant farm labor center pursuant to this chapter may establish a reserve account comprised of the excess funds provided through the annual operating contract received from the department if the department certifies there is no need to address reasonable general maintenance requirements or repairs, rehabilitation, and replacement needs of the requesting migrant farm labor center which affect the immediate health and safety of residents. The cumulative balance of the reserve account shall not exceed 10 percent of the annual operating funds annually committed to the entity by the department. Funds in the reserve account shall be used only for capital improvements such as replacing or repairing structural elements, furniture, fixtures, or equipment of the migrant farm labor center, the replacement or repair of which are reasonably required to preserve the migrant farm labor center. Withdrawals from the reserve account shall be made only upon the written approval of the department of the amount and nature of expenditures.

(c) A migrant farm labor center governed by this chapter may be operated for an extended period prior to or beyond the standard 180-day period after approval by the department, provided that all of the following conditions are satisfied:

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(1) No additional subsidies provided by the department are used for the operation or administration of the migrant farm center during the extended occupancy period except to the extent that state funds are appropriated or authorized for the purpose of funding all or part of the cost of subsidizing extended occupancy periods during the first 14 days only.

(2) Rents are not to be increased above the rents charged during the standard 180-day occupancy period unless the department finds that an increase is necessary to cover the difference between reasonable operating costs necessary to keep the center open during the extended occupancy period and the amount of state funds available pursuant to paragraph (1) and any contributions from agricultural employers or other federal, local, or private sources. These contributions shall not be used to reduce the amount of state funds that otherwise would be made available to the center to subsidize rents during an extended occupancy period.

(3) In no event shall the rent during the extended occupancy period exceed the average daily operating cost of the center, less any subsidy funds available pursuant to paragraph (1) or (2). With respect to an extended occupancy beyond the standard 180-day period, households representing at least 25 percent of the units in the center shall have indicated their desire and intention to remain in residency by signing a petition to the local entity to keep the center open for an extended period at rents that are the same or higher than rents during the regular period of occupancy. Each household shall receive a clear bilingual notice describing the extended occupancy options attached to the lease.

The Legislature finds and declares that because the number of residents may be substantially reduced during the extended occupancy period, a rent increase may be necessary to cover operating costs. It is the intent of the Legislature that the public sector, private sector, and farmworkers should each play an important role in ensuring the financial viability of this important source of needed housing.

(4) An extended occupancy period is requested by an entity operating the migrant farm labor center and received by the department no earlier than 30 days and no later than 15 days prior to the center's scheduled opening or closing date. The department shall notify the entity and petitioning residents of the final decision no later than seven days prior to the center's scheduled opening or closing date. During the extended occupancy period, occupancy shall be limited to migrant farmworkers and their families who resided or intended to reside at a migrant center during the regular period of occupancy.

(5) Before approving or denying an early opening or an extension and establishing the rents for the extended occupancy period, both of which shall be within the sole discretion of the department, the department shall take into consideration all of the following factors:

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(A) The structural and physical condition of the center, including water and sewer pond capacity and the capacity and willingness of the local entity to operate the center during the extended occupancy period.

(B) Whether local approvals are required, and whether there are competing demands for the use of the center's facilities.

(C) Whether there is adequate documentation that there is a need for residents of the migrant center to continue work in the area, as confirmed by the local entity.

(D) The climate during the extended occupancy period.

(E) The amount of subsidy funds available that can be allocated to each center to subsidize rents below the operating costs and the cost of operating each center during the extended occupancy period.

(F) The extended occupancy period is deemed necessary for the health and safety of the migrant farmworkers and their families.

(G) Other relevant factors affecting the migrant farmworkers and their families and the operation of the centers.

(6) The rents collected during the extended occupancy period shall be remitted to the department. However, based on financial records to the satisfaction of the department, the department may reduce the amount to be remitted by an amount it determines the local entity has expended during the extended occupancy period that is not being reimbursed by department funds.

(7) The occupancy during the extended occupancy period represents a new tenancy and is not subject to existing and statutory and regulatory limitations governing rents. Prior to the beginning of the extended occupancy period, residents shall be provided at least two days' advance written notice of any rent increase and of the expected length of the extended occupancy period, including the scheduled date of the beginning of the extended occupancy period and closure of the center. Prior to being eligible for residency during the extended occupancy period, residents shall sign rental documents deemed necessary by the department.

(d) The Legislature finds and declares that variable annual climates and changing agricultural techniques create an inability to accurately predict the end of a harvest season for the purposes of housing migrant farmworkers and their families. Because of these factors, in any part of this state, and in any specific year, one or more migrant farmworker housing centers governed by this chapter need to open early or remain open for up to two additional weeks to allow the residents to provide critical assistance to growers in harvesting crops while also fulfilling work expectations that encouraged them to migrate to the areas of the centers. In addition, if the centers close prematurely or open late, the migrant farmworkers often must remain or reside in the areas to work for up to two weeks. During this time they will not be able to obtain decent, safe, and affordable housing and the health and safety of their families and the surrounding community will be threatened.

The Legislature therefore finds and declares that, for the purposes of any public or private right, obligation, or authorization related to the use of property and improvements thereon as a 180-day migrant center, an extended use of any housing center governed by this chapter pursuant to this section is deemed to be the same as the 180-day use generally authorized by this chapter.

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(e) Because of the presumed income levels of the occupants of migrant farm labor centers, an entity operating a migrant farm labor center shall be deemed eligible for the California Alternative Rates for Energy program established pursuant to Sections 382 and 739.1 of the Public Utilities Code. Any savings from a reduction in energy rates shall be passed on to the occupants of the migrant farm labor center.

50710.5. (a) Notwithstanding any other provision of law, no housing authority, housing authority commissioner, housing authority officer, or housing authority employee, acting in good faith, shall be civilly liable for any injury caused by the presence of lead-based paint, prior to January 1, 1989, in or upon any housing units or related facilities owned by an agency of the state and operated by the housing authority pursuant to a contract authorized by Section 50710 by and between the housing authority and the department.

(b) Subdivision (a) does not, however, limit or expand any liability which the state or the United States may have under other laws on account of an injury specified in this subdivision.

(c) Subdivision (a) does not limit or expand any liability which arose prior to January 1, 1988.

(d) Any housing authority made a defendant in a civil action alleging civil liability on account of any alleged injury specified in subdivision (a), including injuries for which liability may exist under subdivision (c), shall immediately notify the department thereof and may request the state to provide legal representation to defend the housing authority in the litigation. In the event the Attorney General fails to provide legal representation pursuant to the housing authority's request, the department shall indemnify the housing authority for reasonable attorney fees and costs incurred by the housing authority to defend the lawsuit.

(e) Notwithstanding any other provision of law, any contract let by a housing authority to determine the existence of, or mitigate, potential health hazards which existed as of April 1, 1988, and caused by lead-based paint in or upon housing units and facilities specified in subdivision (a), shall not be subject to competitive bidding requirements.

50711. The Director of Housing and Community Development shall have possession and control of all records and papers held previously by the Director of Employment Development relating to the purposes and activities of Section 7100 of the Government Code as it read prior to January 1, 1982.

50712. Any county, city, or other local agency may enter into contracts of the nature described in Section 50710, to the extent that such an agency is otherwise authorized by law to engage in the activity which it contracts to undertake.

50712.5. (a) The Department of Housing and Community Development, through its Office of Migrant Services, pursuant to the authority granted in subdivision (n) of Section 50406 and this chapter shall assist in the development, construction, reconstruction, rehabilitation, or operation of migrant farm labor centers. The department shall encourage and assist in the development of family units, or dormitory-

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style units, as may be appropriate, in migrant farm labor centers in any county or counties where there is a substantial unmet need for migrant farmworker housing. It is the intent of the Legislature in permitting the development of dormitory-style housing that family households not be mixed with single person households unless the contractor or sponsor can make reasonable accommodations to provide separate living and sleeping areas in the dormitory to those family households.

(b) The department may use funds appropriated for the purposes of the Office of Migrant Services to maximize the utility of any other local, federal, state, or private funds or other assistance made available for the purposes of this section. These appropriated funds may be used for costs including, but not limited to, the following items:

(1) Predevelopment costs incurred in the process of securing construction or long-term financing site acquisition development, architectural, engineering, or legal expenses, or construction costs, including construction interest, or both. These costs shall not be subject to reimbursement from construction or permanent financing, as the case may be, if the reimbursement would contribute to, or result in, rents substantially in excess of those in other migrant farm labor centers assisted by the Office of Migrant Services, as determined by the department.

(2) A grant or deferred payment loan for acquisition, development, and related infrastructure costs, including construction, reconstruction, rehabilitation, or operation, which may be forgiven, matching or supplementing the permanent financing or grant made available by a federal, state, or local housing assistance program.

(3) Operating cost reductions to the extent necessary to ensure that the rents in the migrant farm center are not substantially in excess of those in other migrant farm labor centers operated by the Office of Migrant Services.

(c) The department shall seek the maximum possible contribution of funds, land, and other incentives from local, federal, state, and private sources for all the purposes described in subdivision (b). Funds transferred pursuant to Part 8 (commencing with Section 53130) shall not be used in a manner inconsistent with this part. Migrant farm labor centers shall be eligible for energy conservation assistance, including the assistance provided in programs established pursuant to Section 381 of the Public Utilities Code and administered either by a utility or a local or other entity. In the funding and evaluation of energy conservation assistance pursuant to this section, the California Public Utilities Commission shall consider improvements in habitability and the need to bring migrant housing up to adequate standards of comfort through energy efficient mechanical and lighting systems.

(d) To the extent that any migrant farm labor center assisted pursuant to this section is financed or otherwise assisted by the United States Farmers Home Administration, and to the extent the Farmers Home Administration requires compliance with construction, operating, term of use, or residency standards which differ from those required by the department pursuant to regulations adopted to implement and interpret

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this chapter, those Farmers Home Administration standards shall supersede the department's regulations.

(e) The Office of Migrant Services may authorize the use of dormitory-style housing in a migrant farm labor center.

50713. For the purposes of procuring or developing housing or shelter for migratory agricultural workers pursuant to this chapter, the department may execute instruments necessary or convenient for the exercise of its powers and functions, including, but not limited to, pledges, encumbrances, transfers, or assignments of leaseholds of any real or personal property necessary for the procurement or development of the housing or shelter.

50714. (a) The San Diego County Farmworker Housing Account is hereby established, to be administered by the Department of Housing and Community Development, through its Office of Migrant Services pursuant to the authority granted in Sections 50406 and 50710, to assist in the financing, development, and operation of up to 500 family housing units for year-round use by migrant or nonmigrant farm labor employees and their families. The sponsor shall seek federal, state, and local financial and in-kind assistance in the development of this housing, but the lack of that assistance shall not be a prerequisite for obtaining financing under this section for the development and operation of family housing units.

(b) The department shall ensure that the housing is operated on the same basis as other state-financed housing assisted pursuant to this chapter, except that there shall be no limitation set on the term of tenancy if the project is operated for nonmigrant farmworkers.

(c) The department shall award funds pursuant to this section to project sponsors who demonstrate that they are capable of effectively serving the housing needs of migrant or other farmworkers in San Diego County. The year-round use required by subdivision (a) for migrant centers may be interrupted as necessary to close the housing for maintenance purposes and to allow new migrant farmworker families to obtain housing. The project sponsor shall also demonstrate his or her capability of ensuring the project's fiscal integrity and maintaining the project in a decent, safe, and sanitary manner for at least 25 years.

(d) The department shall use funds appropriated by the Legislature for purposes of this section. The appropriated funds may be used for the costs permitted by, or pursuant to, subdivisions (b) to (e), inclusive, of Section 50712.5. For purposes of soliciting and awarding funds pursuant to this section, the department is not required to promulgate regulations.

(e) To be eligible for funding, a project sponsor shall make a contribution to the housing assisted under this section. However, if the housing sponsor can demonstrate that it does not have the capability to make that contribution, no contribution shall be required. A contribution, for purposes of this subdivision, may be in the form of a write-

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down of land costs, fee waiver, direct equivalent financial contribution, or any other incentives of financial value.

(f) The department shall accept proposals from project sponsors commencing November 15, 1989, and until all funds re-appropriated for the purpose of this section are awarded. The department shall award grants to project sponsors commencing September 1, 1990.

50714.5. (a) (1) The Director's San Diego County Farmworker Housing Discretionary Account is hereby established in the Office of Migrant Services in the department. The director may make loans or grants from this account for innovative farmworker housing projects providing housing for migrant or non-migrant farmworkers in San Diego County. There shall be no maximum limitation set on the term of tenancy if the project is operated for farmworkers.

(2) All grants or loans from the account shall be made to local public entities or private community-based nonprofit agencies which agree to both of the following:

(A) To own and operate the farmworker housing project for at least 10 years from the date funds are first advanced to the sponsor under the grant or loan.

(B) To provide and operate the project in compliance with statutes or regulations applicable to rent in state-owned migrant farm labor centers assisted by the Office of Migrant Services and in compliance with the habitability, licensing, and inspection requirements of the Employee Housing Act (Part 1 (commencing with Section 17000) of Division 13).

(3) If the department finds that the sponsor of a project to which funds have been granted under this section has violated either or both of the terms of paragraph (2), the grant shall be deemed a loan and the sponsor shall be liable to the account for repayment of the amount granted, plus interest, in accordance with paragraph (4) or (5).

(4) If the department finds that the sponsor of a project to which funds have been loaned under this section, or a sponsor of a project to which funds have been granted under this section and to whom or to which paragraph (3) is applicable, has violated either or both of the terms of paragraph (2), the sponsor shall be liable to the account for repayment of the amount granted or loaned, plus interest, in accordance with the following:

(A) If the department finds that the violation of either or both of the terms of paragraph (2) has occurred before the date on which six years will have elapsed from the date funds were first advanced to the sponsor under the grant or loan, the sponsor shall be liable to the account for repayment of the full amount of the grant or the full amount of the outstanding balance of the loan, plus interest thereon at the rate of 9 percent per year.

(B) If the department finds that the violation of either or both of the terms of paragraph (2) has occurred on or after the date on which six years will have elapsed, but before the date on which seven years will have elapsed, from the date funds were first

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advanced to the sponsor under the grant or loan, the sponsor shall be liable to the account for repayment of 80 percent of the amount of the grant or 80 percent of the outstanding balance of the loan, plus interest thereon at the rate of 9 percent per year.

(C) If the department finds that the violation of either or both of the terms of paragraph (2) has occurred on or after the date on which seven years will have elapsed, but before the date on which eight years will have elapsed, from the date funds were first advanced to the sponsor under the grant or loan, the sponsor shall be liable to the account for repayment of 60 percent of the amount of the grant or 60 percent of the outstanding balance of the loan, plus interest thereon at the rate of 9 percent per year.

(D) If the department finds that the violation of either or both of the terms of paragraph (2) has occurred on or after the date on which eight years will have elapsed, but before the date on which nine years will have elapsed, from the date funds were first advanced to the sponsor under the grant or loan, the sponsor shall be liable to the account for repayment of 40 percent of the amount of the grant or 40 percent of the outstanding balance of the loan, plus interest thereon at the rate of 9 percent per year.

(E) If the department finds that the violation of either or both of the terms of paragraph (2) has occurred on or after the date on which nine years will have elapsed, but before the date on which 10 years will have elapsed, from the date funds were first advanced to the sponsor under the grant or loan, the sponsor shall be liable to the account for repayment of 20 percent of the amount of the grant or 20 percent of the outstanding balance of the loan, plus interest thereon at the rate of 9 percent per year.

(5) Notwithstanding paragraph (4), when the sponsor of a project to which funds have been granted or loaned under this section has agreed to own and operate the farmworker housing project for 11 or more years from the date funds are first advanced to the sponsor under the grant or loan, and the department finds that a violation of either or both of the terms of paragraph (2) has occurred at any time after the funds have been advanced to the sponsor, the sponsor shall be liable to the account for repayment of a principal amount, and interest thereon, to be determined in the discretion of the director. The principal amount repaid pursuant to this paragraph shall not exceed the amount actually loaned or granted to the sponsor, and the interest shall not exceed the rate of 9 percent per year.

(6) On or before October 1 of each year, the sponsor of a project to which funds are granted or loaned under this section shall submit to the department a written report that includes sufficient information on occupancy, income, and maintenance levels to enable the department to assess whether the sponsor is complying with the terms and conditions of the program and this chapter.

(7) In selecting sponsors, the director may make awards for projects serving the needs of single farmworkers, but preference shall be given to those projects primarily serving families. Funds may be used under this section for farmworker housing on either a permanent foundation or nonpermanent foundation, including manufactured housing or mobile homes.

(b) The department shall use funds appropriated by the Legislature for purposes of this section to maximize the utility of any other local, federal, state, or private funds or

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other assistance made available for the purposes of this section. For purposes of soliciting and awarding funds pursuant to this section, the department is not required to promulgate regulations.

(c) To be eligible for funding, a project sponsor shall make a contribution to the housing assisted under this section. However, if the housing sponsor can demonstrate that it does not have the capability to make that contribution, no contribution shall be required. A contribution, for purposes of this subdivision, may be in the form of a write down of land costs, fee waiver, direct equivalent financial contribution, or any other incentives of financial value.

(d) For purposes of this section, "account" means the Director's San Diego County Farmworker Housing Discretionary Account.

50715. Housing operated pursuant to this chapter may be used for the purposes set forth in Chapter 11.5 (commencing with Section 50800) , provided that no funds appropriated for the purposes of this chapter shall be used for the operation or administration of this housing as emergency shelter pursuant to Chapter 11.5, and provided further that this housing may be made available as emergency shelter pursuant to Chapter 11.5 only during the months of November to March, inclusive.

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2. Office of Migrant Services Regulations

TITLE 25 HOUSING AND COMMUNITY DEVELOPMENT PROGRAMS

Subchapter 7. Office of Migrant Services Article 1. General

§ 7600. Authority and Purpose.

NOTE: Authority cited: Section 50710, Health and Safety Code; Reference: Section 50710, Health and Safety Code.

HISTORY

1. New Subchapter 7 (sections 7600-7665, not consecutive) filed 6-3-80; designated effective 1-1-81 (Register 80, No. 22).
2. Amendment filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).
3. Repeater filed 11-2-88; operative 12-2-88 (Register 88, No. 46).

§ 7601. Federal Law and Regulations.

- (a) This subchapter shall be interpreted to be consistent with all applicable federal law and regulations and, in the event of conflict, federal law or regulations will prevail.
- (b) The Department of Housing and Community Development and its contractors and subcontractors shall comply with all state and federal civil rights laws and regulations and shall not discriminate based on race, color, sex, creed, religion, national origin, age, or any physical handicaps.
- (c) Any information, documents or sources obtained by a contractor or the Department from resident shall remain confidential, and shall be released only pursuant to the requirements of the Information Practices Act of 1977 (Government Code Section. 1798 and following) and other applicable state and federal law.
- (d) The Department shall review and approve the form of all notices, applications, and other documents required by these regulations, before they are provided to residents.
- (e) The Department shall designate a period, of 180 days each calendar year, unless otherwise extended to or reduced by written agreement between the Department and the contractor, during which the housing center(s) shall be open to migratory agricultural workers and their families for occupancy, which period will be referred to as the on-season. The remaining period of time during each calendar year shall be referred to as the off-season.

NOTE: Authority cited: Section 50710, Health and Safety Code; Reference: Section 50710, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).

§ 7602. Definitions.

- (a) "Agricultural employment" means work on a farm, ranch or orchard, or the processing of agricultural products.
- (b) "Applicant" means an individual who signs an application for admission to a migrant housing center.
- (c) "Contractor" means a housing authority, school district, health agency or other appropriate local public or private nonprofit agency and its agents and other appropriate local public or private nonprofit agency and its agents and employees which has contracted with the Department to operate and maintain and provide services for one or

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more migrant centers pursuant to Subchapter 8.5 of Part 2 of Division 31 of the Health and Safety Code, commencing with Section 50710.

(d) "Department" means the Department of Housing and Community Development, Office of Migrant Services.

(e) "Earned income" means income received as payment for work.

(f) "Household" means immediate family members who reside, or who have made application to reside together, as a single family at a migrant center.

(g) "Immediate family" means a migrant center resident and his or her parents, children and spouse, or any other related dependents or persons who regularly live with the family and whose income(s) and resources are available for use in meeting the living expense of the group. In addition to sons and daughters of a resident, "children" shall include minors who are financially dependent on a resident, whether or not they are related to the resident. "Spouse" shall include a person who acts as the husband or wife of the resident, whether or not they are legally married.

(h) "Migrant center" and "migrant housing center" mean a housing center administered by the Department and operated by a contractor for the purpose of providing housing for migratory agricultural workers pursuant to Health and Safety Code section 50710 and shall include all housing units, common areas and structures, equipment and furniture within a housing center, excepting those facilities owned exclusively by a contractor or other interests and not meant for the use of migratory agricultural workers.

(i) "Migratory agricultural worker" means an individual who:

(1) has the employment status of one of the following:

(A) during the current or preceding calendar year, derived at least 50 percent of his/her total annual household earned income from agricultural employment, or

(B) can produce current evidence of a current job offer in agricultural employment; and

(2) performs, has performed, or will perform such agricultural labor during the current or preceding calendar year under conditions which require round trip travel exceeding 100 miles per day such that he/she was unable to return to his/her chosen place of residence within the same day of labor; and

(3) has resided together with his/her immediate family outside a 50 mile radius of the migrant center for at least 3 months out of the preceding 6 month period.

(j) "Operating costs" means the amount of the total expenditures necessary to pay for the costs of operating a migrant family housing center in compliance with Sections 50710 through 50713 of the Health and Safety Code and Sections 7601 through 7665 of Title 25 of the California Code of Regulations. Costs shall include permanent salaries/wages, temporary salaries/wages, and personnel benefits; center office supplies, household supplies, communication, travel and gas/oil; minor equipment and repair/maintenance; purchases under \$150.00; major equipment purchase and repair/maintenance, equipment rental, electricity, and gas; garbage, trash, sewer, and water; other costs; electric/plumbing/paint/solar supplies and services; lumber and materials; grounds maintenance; rehabilitation and repairs; debt service; replacement reserves; administrative support services, travel and auditing expenses.

(k) "Resident" means an individual migratory agricultural worker who signs a lease to reside in a migrant center.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Sections 50710 and 50712.5, Health and Safety Code.

HISTORY

1. Amendment filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).

2. Amendment filed 11-2-88; operative 12-2-88 (Register 88, No. 46).

3. Editorial correction of subsection (d) (Register 95, No. 30).

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4. Amendment of subsections (g) and (o) filed 2-22-96; operative 2-22-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 8).
5. Change without regulatory effect amending subsections (g) and (6) filed 7-31-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 31).
6. Amendment of subsections (g), (i)(1)(A) and 6) filed 3-17-98; operative 3-17-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 12).

Article 2. Admissions

§7610. Eligibility for Admission.

An applicant and his/her immediate family are eligible for admission to a migrant center if they meet all of the following criteria:

- (a) The applicant or applicant's spouse is a migratory agricultural worker. In determining status as a migratory agricultural worker, as defined in Section 7602, the combined earned income of all members of the applicant's household shall be considered, and as long as 50% of the household's combined earned income is derived from agricultural employment, any individual household members may engage in non-agricultural employment. Income from employment at a migrant center shall be included as agricultural employment in the total annual household income when evaluating compliance with the above 50% requirement.
- (b) There is more than one person in the applicant's household and all household members are members of the applicant's immediate family.
- (c) The applicant and his/her household conform to the occupancy standards set out in Section 7612.
- (d) The contractor may determine that an applicant is not eligible for admission if, on the basis of substantial, factual evidence of that person's prior actions there is good cause to believe that the applicant or any member of his/her household will repeatedly fail to pay rent, will create a substantial threat to the health and safety of other residents, or will repeatedly breach material requirements of the lease. Unsubstantiated oral statements will not be deemed substantial factual evidence.
- (e) The above eligibility criteria shall be exclusive and no other factors shall be considered in determining eligibility of applicants.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

HISTORY

1. Amendment of subsections (a) and (d) filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).
2. Amendment of subsection (a) filed 2-22-96; operative 2-22-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 8).
3. Change without regulatory effect amending subsection (a) filed 7-31-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 31).
4. Amendment of subsection (a) filed 3-17-98; operative 3-17-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 12).

§7611. Admission Priorities.

- (a) Applicants shall apply for admission on a first-come, first-serve basis, on the day that each migrant center opens for housing registration. An alternative method permitting preferential admission for residents of the migrant center's previous season may be used if approved by the Department.
- (b) Applicants who have previous or current agricultural employment shall be given priority for occupancy of units during the opening day each season over those who

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have no history of current or past agricultural employment, but have offers of employment.

(c) If more eligible applicants apply than there are available units, the contractor shall maintain a waiting list with applicants listed in order of date and time of application. A priority number shall be issued upon application and shall be noted on the application form. When a housing unit becomes vacant, the contractor shall offer the unit to the first eligible appropriate candidate on the list. If after a good faith effort the contractor is unable to contact the first applicant on the list, the contractor may offer the unit to the next eligible appropriate candidate on the list, until the list is exhausted. If an applicant has not checked in with the contractor in the prior 24 hours, his/her name may be dropped from the waiting list.

(d) The foregoing priority shall be followed without regard to race, creed, religion, sex, color, or national origin or any other factor precluded by law.

NOTE: Authority cited: Section 50710, Health and Safety Code; Reference: Section 50710, Health and Safety Code.

HISTORY

1. Amendment filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).
2. Amendment filed 11-2-88; operative 12-2-88 (Register 88, No. 46).

§ 7612. Occupancy Standards.

(a) Each migrant center shall remain open 180 days each calendar year. The period of time during which a migrant center is open may be extended or reduced pursuant to written agreement between the Department and the contractor responsible for the operation and maintenance of that migrant housing center.

(b) A migratory agricultural worker and his/her immediate family may not occupy more than two housing units at any one time.

(c) To avoid overcrowding and prevent waste of space, dwellings are to be assigned in accordance with the occupancy standards set forth as follows:

<i>Number of Bedrooms</i>	<i>Maximum number of Persons</i>
1	4
2	7
3	10
4	13

These maximum standards may be waived by the contractor when appropriate in order to make temporary use of available vacant units or to house families in urgent need.

If a resident is living in a unit which is too small for his/her household according to these occupancy standards, the contractor may transfer resident to the next available unit of appropriate size or may provide resident with an available additional unit. In addition, contractor may require a resident who is living in a unit which is too large for his/her household to exchange units with a resident who is living in a unit which is too small.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).

§ 7613. Application and Admission Requirements.

(a) The Application for Admission constitutes the basic record of each migratory agricultural worker and his/her household who has applied for admission to a migrant

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housing center. Each applicant shall provide all information requested in the Application for Admission, sign the application, and attest to the accuracy of the data provided.

(b) Each application for Admission shall reflect the date and time of application by the applicant.

(c) Applications for Admission shall be available in English and the language spoken by a majority of applicants. The contractor shall provide assistance to all applicants in filling out the application.

(d) The Application for Admission and all other materials relating to the eligibility of the applicant and his/her household, including applicants who are found ineligible, shall be kept in an active file.

(e) The Application for Admission shall call only for information necessary to determine the eligibility of the applicant and his/her household as defined in Section 7610. Such information shall include the size and composition of the applicant's household.

NOTE: Authority cited: Section 50710, Health and Safety Code; Reference: Section 50710, Health and Safety Code.

HISTORY

1. Amendment filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).

§ 7614. Verification.

(a) The contractor shall verify information provided by the applicant.

(b) The contractor shall accept a document submitted by an applicant for verification if it provides credible evidence of applicant's eligibility. The department may determine which types of documents do not provide credible evidence. The following are examples of acceptable documents but other forms of documentation offered by the applicant may be accepted:

(1) Income tax reports (e.g. W-2 forms) or other statements from employers or other income sources.

(2) Signed employer verification form,

(3) Migrant transfer record,

(4) Unemployment insurance benefits reports,

(5) Vehicle license number,

(6) Driver license.

(7) Signed current letter from employer or potential employer verifying current job offer for an applicant with no prior history of agricultural employment.

(c) Information obtained by telephone or personal interview may be used for admission, provided that no other documentation can be provided by applicant. A memorandum shall be placed in the verification records summarizing the information, stating the source and date of contact, and shall be signed and dated by the contractor's agent or employee who prepared the memorandum.

(d) In order to determine whether an applicant is ineligible for admission on the grounds stated in Section 7610 (d), the contractor may rely upon, for example, written records of a migrant center or other housing management, statements of a migrant center manager or other housing manager or owner or a chairperson of a resident council, and written records of administrative and court hearings in cases where action was brought against the applicant regarding conduct in a migrant center or other housing. Only credible information regarding the applicant's prior actions may be taken into account.

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(e) Documents and other verification information shall be required only for the purpose of determining eligibility under the criteria in Section 7610 and shall not be required for any other purpose.

(f) Verification information shall be reviewed and evaluated as received for completeness, accuracy, and conclusiveness. Where the information received, at the time of application, is not adequate to verify the applicant's eligibility, the contractor may exercise discretion and either notify applicant that he/she is ineligible or permit applicant an additional 24 hours to produce the necessary documents. If during the verification process it becomes evident that for one or more reasons an applicant is ineligible, the investigation is to be discontinued and the applicant notified of his/her ineligibility and the reasons therefor, and of his/her right to a hearing as provided in Section 7615.

(g) If a determination is made that an applicant is not eligible the reasons for that finding and a summary of the information upon which that finding is based shall be written on the application form and signed by the staff person who made the determination.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

HISTORY

1. Amendment filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).

2. New subsection (b)(7) filed 11-2-88; operative 12-2-88 (Register 88, No. 46).

§ 7615. Notification to Applicants.

(a) Each applicant shall be notified as promptly as possible regarding his/her eligibility status. If determined to be ineligible for admission, the applicant is to be informed in writing of the determination, the reasons for the determination, and of his/her right to request a hearing pursuant to subsection (b) of this section. For each such case, a record shall be maintained, including a notation of the circumstances involved, final action taken, and the dates. A form for requesting a hearing shall be in English and in any other language spoken by a majority of applicants.

(b) An applicant must request a hearing within 24 hours after written notification of ineligibility is personally delivered, or his/her rights to a hearing shall be deemed to be waived.

(c) Except where an applicant is refused admission due to lack of appropriately- sized housing units, contractor shall hold an appropriate unit vacant until the time to request a hearing has passed or, if a hearing is timely requested, until after a hearing is conducted.

(d) A hearing requested pursuant to subdivision (b) shall be held promptly, and shall be conducted in the primary language of the applicant or with a translator who speaks such language. Applicant shall not be required to miss work in order to appear at the hearing. The hearing requested pursuant to this section shall be conducted by a supervisor of the person who made the determination that the applicant was ineligible. Such decision shall be in writing and set forth the reasons and findings for the decision.

(e) Each applicant determined to be eligible for admission shall be housed promptly. The date that housing units are assigned may be designated by the Department.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

HISTORY

1. Amendment filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).

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§ 7616. Execution and Amendment of Dwelling Lease.

- (a) At the time of admission, the applicant accepted for admission shall sign the lease. The lease shall comply with Section 7623 and shall be prepared in triplicate. One copy shall be given to the applicant, one copy to the Contractor, and the original shall be filed in the permanent record folder established for the applicant at the center office.
- (b) If, through any cause, the signer of the lease ceases to be a member of the resident household, a new lease shall be signed by the family member qualifying as head of the household, provided the household remains eligible for continued occupancy.
- (c) If a resident household transfers to a different migrant center a new lease shall be executed to reflect the new dwelling.
- (d) If, at any time during the term of the lease, any other change in the resident's status results in the need to change or amend any provisions of the lease, the lease should be amended to reflect the changes.
- (e) All lease revisions are to be dated and signed by the resident.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

HISTORY

1. Amendment of subsection (a) filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).
2. Amendment of subsection (a) filed 11-2-88; operative 12-2-88 (Register 88, No. 46).

Article 3. Lease

§ 7620. Local Rules and Regulations.

In addition to the requirements in the lease, each contractor may adopt reasonable rules and regulations necessary for the proper operation of each migrant housing center and consistent with this subchapter. Such rules and regulations shall be submitted to the resident council for comment and to the Department for approval prior to their becoming effective. Such rules and regulations shall be given to each applicant at the time the lease is signed.

NOTE: Authority cited: Section 507 10, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

HISTORY

1. Amendment filed 2-26-82; effective thirtieth day thereafter (Register 82, No.9).

§ 7621. Rents.

Rents shall be charged according to a schedule of rents established by the Department. Rents shall not be adjusted except in accordance with Section 7650 or 7653.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).
2. Amendment filed 11-2-88; operative 12-2-88 (Register 88, No. 46).
3. Amendment filed 3-17-98; operative 3-17-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 12).

§ 7622. Replacement Charges.

The charges to residents for damages caused to the migrant center property shall be made in accordance with a schedule of replacement costs which shall be adopted by

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each contractor and posted in the management office of each migrant center, and shown to applicant at the time the lease is signed.

NOTE: Authority cited: Section 507 10, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).

§ 7623. Lease.

Each contractor shall use the following lease when leasing a unit in a migrant housing center. The lease shall be in English and a copy provided in the language spoken by a majority of applicants.

HOUSING AUTHORITY
BOARD OF SUPERVISORS
BOARD OF DIRECTORS

OF THE _____ OF _____

_____ MIGRANT CENTER UNIT NO. _____

OCCUPANCY DATE _____ BEDROOM SIZE _____

The _____ of the _____ of _____
(Management), relying upon statements in the resident's application for housing, agrees to lease to (Resident), the residence described above, under the terms and conditions stated in this lease. The following people will occupy the residence:

_____	_____
_____	_____
_____	_____

1. TERM OF LEASE

The term of this lease shall be one month. The lease shall be automatically renewed for successive terms of one month unless terminated in accordance with Paragraph 6 of this lease.

2. OCCUPANCY

Resident, and members of Resident's household, as listed in Resident's application for housing, shall have the exclusive right to use and occupy the residence. Resident shall not sublet nor assign this lease. Resident agrees to comply with the transfer procedures in the Resident's Handbook for Migrant Centers.

3. RENT

The daily rent for these premises is _____. The rent shall be paid _____ weekly, _____ bi-weekly, _____ monthly (check one) in advance on the day of each _____.

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4. SECURITY DEPOSITS

Resident agrees to pay \$ as a security deposit upon the terms and conditions contained in the Resident's Handbook for Migrant Centers. Resident agrees to pay \$25.00 as an additional security deposit for the first two electronic gate security cards assigned to a household at Centers that have electronic gates, and \$25 for each additional card after the first two. These security deposits shall be returned to the Resident upon the conditions contained in the Resident's Handbook for Migrant Centers.

5. UTILITIES

Management shall pay for the cost of all utilities, except telephone.

6. TERMINATION I ON OF LEASE

(a) Resident may terminate this lease at any time. Rent is only paid for the period Resident actually occupied the housing unit. Any unused rent shall be returned to Resident according to the termination terms and conditions contained in the Resident's Handbook for Migrant Centers.

(b) Management may terminate this lease only for good cause. Management shall terminate this lease in accordance with the provisions contained in the Resident's Handbook for Migrant Centers.

7. RESIDENT'S HANDBOOK FOR MIGRANT CENTERS

The provisions contained in the Resident's Handbook for Migrant Centers shall be a part of this lease. Resident and Management agree to be bound by the terms of the Handbook.

DATED: _____

RESIDENT

DATED: _____

MANAGEMENT

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

HISTORY

1. Amendment filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).
2. Amendment of lease form heading and paragraph 4. filed 2-22-96; operative 2-22-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 8).
3. Amendments filed and operative 2-26-96 invalidated by *Martinez v. California Department of Housing and Community Development*, Sacramento Superior Court No. 96CS 0 1752 (December 19, 1996).
4. Amendment filed 3-27-97 as an emergency; operative 3-27-97 (Register 97, No. 13). A Certificate of Compliance must be transmitted to OAL by 7-25-97 or emergency language will be repealed by operation of law on the following day.
5. Reinstatement of section as it existed prior to 3-27-97 order by operation of Government Code section 11346.1(f) (Register 97, No. 31). Emergency amendment filed and operative 3-27-97 invalidated by *Orejel v. California Department of Housing and Community Development*, Sacramento Superior Court No. 96CS01752 (May 28, 1997).
6. Change without regulatory effect repealing amendments filed and operative 2-26-96 filed 7-31-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 31).
7. Editorial correction amending section and HISTORY 5 and adding HISTORY 6 (Register 98, No. 12).
8. Amendment filed 3-17-98; operative 3-17-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 12).

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§ 7624. Resident's Handbook.

Each contractor shall give the Resident a copy of the following Resident's Handbook for Migrant Housing Centers at the time of the execution of the lease. This Handbook shall be in English and the language spoken by a majority of applicants. The provisions of this Handbook are binding on all Residents, contractors, and the Department.

RESIDENT'S HANDBOOK FOR MIGRANT HOUSING CENTERS

Welcome to the Migrant Housing Center. This Handbook contains important information concerning the rights and responsibilities of residents and management of the migrant center. Please read it carefully and keep it with you while you are living at the center.

RENT

Rent shall be paid either monthly, bi-weekly, or weekly, depending on your agreement with the manager.

The department shall establish a schedule of rents from a statewide base for 1998 of seven dollars and fifty cents (\$7.50) per day for a two-bedroom dwelling. An additional fifty cents *(\$0.50)* per day shall be charged for a three-bedroom unit, and an additional one dollar (\$1.00) per day shall be charged for a four-bedroom or larger unit. In any year, any household which occupies more than one two-bedroom unit shall pay one dollar (\$1.00) per day for the second unit.

The base rent shall be adjusted, if necessary, at the beginning of each state fiscal year to an amount calculated by the Department considering total statewide operating cost throughout the state and total state and other funds available for all centers and after an opportunity for resident comment. There may be additional mid-season adjustments in rent after 30 days written notice. The exact rules for rent adjustments are in the Office of Migrant Services Housing Center Regulations, Sections 7650 and 7653.

SECURITY DEPOSIT

The security deposit will be no less than \$100.00 and no more than \$125.00. This deposit may only be used by management for unpaid rent, for any cost to clean the unit beyond normal wear and tear, and for the cost to repair damages beyond normal wear and tear caused by you or your guests. The security deposit may not be used for charges caused by normal wear and tear.

An additional security deposit of \$25.00 is required for the first two electronic gate security cards issued to you, and for each additional card thereafter, if your center has an electronic security gate. In the event an electronic gate security card is lost or not returned, you will forfeit this deposit. An additional deposit will be required before a new electronic gate security card is issued to you. If an electronic gate security card is returned damaged, you must pay actual replacement cost of the gate card.

Management shall make arrangements with you to pay these deposits at a later time if you cannot afford to pay the full amount at the time you are admitted to the center.

The rules for getting back your deposit at the end of the residency are as follows:

If you give management at least three days notice that you are leaving, management shall return the deposit to you on the day you move out. If management keeps all or

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part of deposit, they must provide a written statement explaining why those amounts were withheld.

If you do not give management at least three days notice that you are leaving, management will make permissible deductions and send the deposit to your forwarding address within two weeks. If the management does not have a forwarding address, management will hold your deposit for six months. After six months your deposit is forfeited. If management must hold your deposit, it will not entitle you to preference for admission the next year.

UTILITIES

All utilities (excluding telephone service), are to be paid by management at no additional charge to you.

TRANSFER

If you are living in a housing unit which is too small for your family, according to the occupancy standards set forth in the Office of Migrant Services Housing Center Regulations, management may transfer your family to the next available appropriate unit, or may provide your family with an additional available housing unit.

In addition, if you are living in a unit which is too large for your family, management may require you to exchange units with a family which is living in a unit which is too small. If there is such an exchange, the family in the larger unit must receive at least seven (7) days written notice from management.

GUESTS

You may have guests (including overnight), but you must get permission from management if guests will be staying more than 3 days.

MANAGEMENT RIGHTS AND OBLIGATIONS

(a) All center personnel are answerable to management.

(b) Management is authorized to provide free housing and utilities to center personnel who received or who will receive said housing benefits as a condition of their employment.

(c) During the off-season management is authorized to enter into sublease agreements with federal, state, and local public entities for use of the common facilities. Such facilities shall be available for use by center residents during the on-season.

(d) Management is to keep the center in a decent, safe, and sanitary condition. Repairs are to be made promptly.

(e) Management shall repair and maintain all electrical, plumbing, sanitary, heating, ventilating, and cooling equipment, and appliances supplied by the Department in accordance with contractor's budget.

(f) Management and residents shall cooperate on all matters pertaining to energy conservation.

(g) Management is authorized to reduce or stop charging rent on housing units which develop major defects that make the unit a threat to the health or safety of the resident and his/her family. However, management shall repair the unit or move the residents to another unit as soon as possible.

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(h) The Department shall provide funds to contractor for the purpose of relocating residents displaced as a result of rehabilitation activities of management. Replacement housing shall be provided without any additional cost to resident and his/her family.

RESIDENT'S RIGHTS AND OBLIGATIONS

You, as a resident, agree to:

- (a) Use your residence only as a private dwelling unit for you and your family;
- (b) Keep your yard in a clean and safe condition;
- (c) Dispose of rubbish properly in a safe and sanitary manner;
- (d) Keep your family or guests from damaging or removing the property of the Migrant Center;
- (e) Pay for damages caused by those under your control, according to a schedule of maintenance and repair charges;
- (f) Keep from disturbing the other residents;
- (g) Keep no pets on the premises;
- (h) Park vehicles only at areas designated for this purpose. Vehicles shall not be abandoned, repaired or maintained within the center; however, routine servicing is permitted if it does not involve toxic substances (including, but not limited to, oil and brake fluids or car batteries) or does not create a danger for the residents, and if it is consistent with local rules and regulations;
- (i) Make no major additions or changes to your residence, its equipment, or furniture provided by management.
- (j) Tell the management if you and your family will be away for more than three (3) days;
- (k) Leave your residence clean and in good condition when you vacate the premises;
- (1) Obey the rules and policies governing the Migrant Centers in existence when you moved in;
- (m) Report damages and needed repairs to management. If management does not repair your unit in a reasonable time, the request should be submitted in writing. In the event management does not respond to your written request within a reasonable time, you may do such repairs up to two times each year, each time spending an amount equal to one (1) month's rent and deduct this amount from your rent payments;
- (n) If there are major defects in the housing unit that make the unit a threat to your health or safety you may ask for immediate repairs or to be relocated to another unit. If management does not make repairs or relocate you, within a reasonable time, you may stop paying rent and pay only reasonable rental value for your unit.
- (o) You must physically occupy your unit within seven days after being admitted to the center and must continue to physically occupy the unit until you leave the center. If you leave the unit vacant for more than seven days and there are other eligible families waiting for housing, management may lease your unit to another family. Management may, at their discretion, permit you to leave the unit vacant for a longer period of time.
- (p) Comply with other rights and obligations agreed upon by management and the Resident Council and approved by the California Department of Housing and Community Development;
- (q) You and your guests, upon advance notice to management, may use the common facilities of the Migrant Center for meetings or other lawful activities which do not interfere with other activities or the rights of other residents;

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- (r) You and your guests have a right to privacy;
- (s) Management may not retaliate against you for any lawful action including exercising the rights given you under this handbook and/or the laws of the United States or the State of California.

RULES, REGULATIONS AND POLICIES

You and management both agree to follow the written rules, regulations, laws and policies governing the Migrant Centers. Local management rules and policies may be changed only if residents are given 30 days written notice of changes.

The following rules and regulations are to be made available to you in English and in the language spoken by the majority of residents:

- (a) Schedule of Rents;
- (b) Schedule of Maintenance and Repair Charges;
- (c) Occupancy and Eligibility Policies;
- (d) Local Management Rules, Regulations and Policies;
- (e) Grievance Procedures;
- (f) Department of Housing and Community Development, Office of Migrant Services Regulations.

INSPECTION

When you move in, you must be provided with an inventory list detailing the condition of the unit and the equipment provided with the unit. The list is to be signed by both you and the management. If you disagree as to the conditions of the unit or its equipment, you should note this on the list before, or as soon after moving in as possible. Both you and the management are to keep a copy of this inventory. This list will help in determining how much of your security deposit will be returned to you.

ENTRY OF RESIDENCE DURING TENANCY

Management may enter only during reasonable hours with either your permission or that of an adult member of your family. If management reasonable suspects an emergency exists, such as a fire, management may enter at any time.

After giving 24 hours written notice, management may enter your units to inspect, repair, maintain, or show it to others interested in renting the unit after you leave. This notice is not required if you requested such entry.

You shall not unreasonably deny management permission to enter your unit.

TERMINATION OF LEASE

You may end your lease at any time. Rent is only paid for the period you actually occupied the housing unit. Any unused rent shall be returned to you. If you give at least three (3) days notice of intent to vacate the center, management must, on the day you move out, return the unused rent to you. If you do not give at least three (3) days notice of intent to leave, management has two (2) weeks within which to send the unused rent to your forwarding address. In the event you do not give management a forwarding address, management shall hold your unused rent for six months and return it to you if you pick it up or provide a forwarding address within six months. After six months, the rent is forfeited. If management must hold your unused rent, it will not entitle you to preference in admission to the housing center the next year.

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Management may require you to move out if you have seriously or repeatedly violated important terms of the lease agreement such as not paying rent; serious interference with the rights of other migrant residents; knowingly giving false statements of important facts to management concerning your eligibility for migrant housing; or for other good cause.

In order for management to begin termination of this lease, it must give you or an adult member of your household a written notice stating the reason(s) for termination and notifying you of your right to request a hearing as allowed under the grievance procedure.

If you have not paid your rent, management shall give you a seven (7) day notice to either pay the rent or move out. If your actions cause an immediate threat to the health and safety of the other residents, the management shall give you a reasonable time to move out, but not less than three (3) days.

In all other cases, 14 days notice shall be given to either comply with the terms of the lease or move out.

GRIEVANCE PROCEDURE

If you and management disagree as to the rights and obligations under the lease, including the right of management to terminate your lease, these disagreements will be settled through the complaint and grievance procedure in the regulations of the Office of Migrant Services. You may not use the grievance procedure if management terminates your lease because your actions cause an immediate threat to the health and safety of your neighbors.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

HISTORY

1. Amendment filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).
2. Amendment of subsection entitled RENT filed 11-2-88; operative 12-2-88 (Register 88, No. 46).
3. Amendment of subsections entitled RENT, SECURITY DEPOSITS and subsection (h) of RESIDENT'S RIGHTS AND RESPONSIBILITIES filed 2-22-96; operative 2-22-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 8).
4. Editorial correction of RENT (Register 96, No. 37).
5. Amendments filed and operative 2-26-96 invalidated by *Martinez v. California Department of Housing and Community Development*, Sacramento Superior Court No. 96CS01752 (December 19, 1996).
6. Amendment filed 3-27-97 as an emergency; operative 3-27-97 (Register 97, No. 13). A Certificate of Compliance must be transmitted to OAL by 7-25-97 or emergency language will be repealed by operation of law on the following day.
7. Reinstatement of section as it existed prior to 3-27-97 order by operation of Government Code section 11346.1(f) (Register 97, No. 3 1). Emergency amendment filed and operative 3-27-97 invalidated by *Orejel v. California Department of Housing and Community Development*, Sacramento Superior Court No. 96CS0 1752 (May 28, 1997).
8. Change without regulatory effect repealing amendments filed and operative 2-26-96 filed 7-31-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 3 1).
9. Editorial correction amending section and HISTORY 7 and adding HISTORY 8 (Register 98, No. 12).
10. Amendment of RENT, SECURITY DEPOSIT AND RESIDENT'S RIGHTS AND OBLIGATIONS (h) filed 3-17-98; operative 3-17-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 12).

Article 4. Complaint and Grievance Procedure

§ 7630. Complaint and Grievance.

All grievances of residents of migrant housing centers shall be resolved in accordance with the procedure set forth in this Article. A grievance is any factual or legal dispute which a resident may have with respect to contractor action or failure to act, in accordance with the lease, contractor policies, these regulations, or law which

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adversely affect the resident's rights, duties, welfare, or status. Failure to present a grievance shall not bar its use in any judicial proceeding.

Except in cases involving eviction of the resident, a resident may not request a grievance hearing until he/she has taken both of the following actions personally or through the tenant council:

(a) First, the resident must submit a written complaint to contractor. Contractor must respond, in writing, within 10 days after receiving the written complaint.

(b) If the problem has not been resolved after the resident has received contractor's written response or after the time for contractor to respond has passed, the resident must submit a written complaint to the department. The department must respond in writing within 10 days after receiving the written complaint. After the department has responded in writing or after the time to respond has passed, the resident may then request a grievance hearing, if the dispute has not been settled.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

HISTORY

1. Amendment filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).

§ 7631. Bilingual Procedures.

Grievance hearings, conferences, notices, and summaries pursuant to this Article shall be in English or in the language of the majority of residents. If the resident speaks some other language a translator shall be provided.

NOTE: Authority cited: Section 507 10, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

HISTORY

1. Amendment filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).

§ 7632. Presentation of Grievance.

The resident shall personally present a grievance to the resident's migrant housing center manager or to the contractor's main office. For purposes of this section, grievances shall be accepted by the center manager until 5:00 p.m. The resident shall present the grievance within three (3) working days from receipt of notice in the case of a termination. In a case other than a termination, the resident must have complied with the procedures in Section 7630, and must present the grievance within 3 days after receiving a written response from the department or, if no response is received, within 3 days after the time for the department to respond has passed. The grievance may be presented orally or in writing. The contractor may request that an oral grievance be confirmed in writing by the resident. The contractor and the resident and any representative of either may discuss the grievance informally and attempt to settle the grievance without a hearing.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

HISTORY

1. Amendment filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).

2. Editorial correction of section misnumbering (Register 96, No. 37).

§ 7633. Summary of Discussion.

If the contractor and the Resident are unable to settle the grievance informally, the contractor shall send to the resident a written summary of the grievance. The summary shall include:

(a) The contractor's proposed disposition of the grievance;

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- (b) The specific reasons for the proposed disposition;
- (c) The names of the participants and the dates of any meetings held to discuss the grievance; and
- (d) The procedure by which the resident may obtain a hearing to review the grievance.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).

§ 7634. Request for Hearing.

If the resident is not satisfied with the contractor's proposed disposition of the grievance contained in the summary, the resident shall submit a written request for a hearing to the contractor's main office or to the resident's migrant housing center manager's office. The resident shall submit the request within three (3) working days after receipt of the summary. The request shall specify the reasons for the grievance, and the action or relief sought.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).

§ 7635. Selection of Hearing Officer or Panel.

Grievances not resolved informally in accordance with Sections 7630, 7632 and 7633 shall be presented before a hearing officer or hearing panel. A hearing officer or panel shall be selected as follows:

- (a) The hearing officer shall be an impartial, disinterested person selected jointly by the resident and the contractor.
- (b) In the event they cannot agree, each will pick one member of a hearing panel, and the members so appointed shall select a third member. If the members appointed by the resident and the contractor cannot agree upon a third member, then the third member shall come from a community based organization mutually agreed upon by the contractor and the resident council.
- (c) In lieu of the procedure set forth in subparagraphs (a) and (b) of this section, a contractor may provide for the appointment of hearing officer or hearing panel by any method which is approved by the majority of the tenant council.
- (d) In the event the hearing officers or members of the hearing panel are not fluent in the language most readily understood and spoken by the resident, the contractor will make a reasonable good faith effort to provide a translator for the benefit of all parties involved.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 507 10, Health and Safety Code.

HISTORY

1. Amendment filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).

§ 7636. Scheduling of Hearing.

The hearing officer or panel shall promptly schedule a hearing for a date, time, and place reasonably convenient to the parties and shall notify the parties in writing of the date, time, place, and the procedures governing the hearing. Hearings shall be conducted no more than ten (10) working days after receipt of a request. Resident shall not be required to miss work in order to appear at the hearing.

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NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).

§ 7637. Due Process Hearing.

At and before the hearing, the resident shall be entitled to:

- (a) Examine before the hearing any documents, regulations, and records of the contractor relevant to the hearing. The contractor may not, at the hearing, rely on any document requested by the resident before the hearing, but not made available to the resident. If the resident prevails, the cost of copying such documents shall be paid by the contractor;
- (b) Be represented by counsel or other person chosen by the resident as his or her representative;
- (c) Request a private or public hearing;
- (d) Present evidence and arguments in support of the grievance, controvert evidence relied on by the contractor and confront and cross-examine all witnesses on whose testimony or information the contractor relies.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).

§ 7638. Non-Appearence.

If either party or his/her representative fails to appear at a scheduled hearing, the hearing officer or panel may decide that the non-appearing party has waived his/her right to a hearing and shall notify the parties of the decision. The hearing may be continued to a later date, but no more than five (5) days, for a good cause.

If the resident does not appear, he can, within five (5) days request that the hearing be re-opened and any decision already made by the hearing officer or panel be stayed. Such request shall be granted if the resident makes a showing of good cause for his non-appearence.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

HISTORY

1. Amendment filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).

§ 7639. Hearing Procedure, Evidence and Transcript.

(a) The hearing officer or panel shall conduct the hearing informally. At the hearing, the resident shall first explain why he or she is entitled to the relief sought in the grievance. Thereafter, the contractor shall sustain the burden of justifying its action or failure to act against which the grievance is directed.

(b) Oral or documentary evidence relevant to the facts and issues raised by the grievance may be received without regard to admissibility under judicial rules of evidence, but with appropriate regard to credibility, authenticity, relevance, and materiality.

(c) Either party may arrange for a transcript of the hearing at the party's own expense. Any other interested person may purchase a copy of the transcript if the resident who requested the grievance so permits. Alternatively, upon the request of the resident, the

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hearing may be tape-recorded and the tape recording will be the official record of the hearing and available as set forth herein.

(d) Except as otherwise provided by this grievance procedure, or as otherwise provided by agreement of the parties in writing, the hearing procedure, the hearing decision, and enforcement of the decision shall be governed by the California statutes relating to arbitration agreements and awards, Code of Civil Procedure, Section 1280 et seq.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).

§ 7640. Hearing Decision.

(a) The hearing officer or panel may render a decision without proceeding with the hearing if the hearing officer or panel determines that the issue presented by the grievance has been previously decided in another proceeding.

(b) Except as provided in paragraph (a) above, the hearing officer or panel shall render a decision based solely on the facts presented at the hearing or by a statement of facts agreed to by the parties.

(c) The hearing decision shall be written, shall state the reasons for the decision and shall be sent to the parties within seven (7) working days after the hearing.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).

§ 7641. Effect of Decision and Right to Trial De Novo.

The decision of the hearing officer or panel shall be binding on the contractor and resident which shall take actions, or refrain from any actions necessary to carry out the decision. Nothing contained in this grievance procedure shall constitute a waiver of the resident's or contractor's right to a trial de novo or judicial review of any court action.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

HISTORY

1. Amendment filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9)

§ 7642. Eviction Actions.

(a) If the grievance involves a contractor notice of termination of tenancy and if the resident has requested a hearing within the time limits specified above, then the contractor shall not file an unlawful detainer action until:

(1) the hearing officer or panel has upheld the contractor's action to terminate the tenancy or the hearing has been waived by the resident's non-appearance;

(2) the hearing decision has been sent to the resident; and

(3) the contractor has sent to the resident a written notice to vacate the premises, following the decision.

(b) The notice to vacate the premises shall specify that if the resident fails to quit the premises within five (5) days, the contractor will file an unlawful detainer action against the resident in court, and the resident may be required to pay court costs.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 507 10, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 2-2-82; effective thirtieth day thereafter (Register 82, No. 9).

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§ 7643. File of Decisions.

The contractor shall keep a copy of the hearing decision in the resident's file. The contractor shall also keep a copy of the hearing decision, with names and identifying references deleted, on file for inspection by any prospective complaining resident, his or her representative or a hearing officer or panel. Any hearing decision reversed by a court of law shall be noted as such.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 2-26-81; effective thirtieth day thereafter (Register 82, No. 9).

§ 7644. Irregularities; Agreements.

(a) If either the contractor or the resident has failed to proceed in accordance with this grievance procedure, the other party may waive such an irregularity in procedure for good cause shown.

(b) The parties may agree in writing to follow a different procedure in the resolution of a grievance.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).

§7645. Resident's Right to Trial De Novo and Judicial Review.

HISTORY

1. Repealer filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).

§ 7646. Inapplicability of Procedure.

This grievance procedure shall not apply to an eviction or termination of tenancy based upon a resident's creation of maintenance of an immediate threat to the health and safety of other residents or contractor's employees.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).

Article 5. Rent Raises

§ 7650. Rent Schedule.

(a) The Department shall establish a schedule of rents, which shall govern the amount of rent paid by residents for occupancy of units in migrant housing centers.

(b) The schedule of rents shall be established from a statewide base for the 1998 on-season of a rent rate of seven dollars and fifty cents per day for a two-bedroom dwelling.

(c) If the Department determines that it is necessary, the Department shall establish a modified base rent for a two-bedroom dwelling unit, which may be as low as four dollars per day. The necessity to modify the base rent shall be determined based on factors which include, but are not limited to, the condition of the units; the funding level appropriated by the Legislature for the purposes of the Department; or the availability of other funds which subsidize the operation of the center. At the request of the Department, the contractor shall provide information necessary for this determination.

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Decreases in the base rent established pursuant to this subsection shall be rounded to the nearest twenty-five cents.

(d) (1) In order to assess whether a rent adjustment is necessary for the subsequent fiscal year, the Department shall develop a Projected Operating Fiscal Need. The Projected Operating Fiscal Need shall be the difference between the Projected Operating Costs and the Projected Available Operating Funding for the subsequent fiscal year, each of which is determined as follows:

(A) Total Projected Operating Costs for the subsequent fiscal year shall be determined as follows:

(1) The current fiscal year operating budget, with modifications based on cost trends from the two prior fiscal years' actual operating costs, and further adjusted to account for increases or decreases in the total number of units projected to be available for the subsequent fiscal year;

(2) The total amount of deferred rehabilitation and repairs anticipated to be funded during the subsequent fiscal year; and

(3) The total amount estimated to be necessary for an emergency contingency fund, not to exceed 5 percent of the total amounts of subparagraphs (1) and (2).

(B) Total Projected Available Operating Funding for the subsequent fiscal year shall be determined as follows:

(1) The current fiscal year's State General Fund appropriation for operations;

(2) The projected rent revenues and resources available at the end of the current fiscal year which were not allocated in a contract;

(3) The projected rent revenue to be remitted to the Department during the subsequent fiscal year, based upon the current schedule of rents;

(4) Any carry-over funds from Health and Safety Code Section 50710.1 reserves available at the beginning of the current fiscal year; and

(5) Projected additional private, local, State and federal revenues available for the subsequent fiscal year.

(2) If a Projected Operating Fiscal Need exists for the subsequent fiscal year, the Department shall seek funds from appropriate and available sources including, but not limited to, private, local, State and federal revenue sources. If the Department determines that sufficient funds will not be available from all revenue sources in the amount necessary to fully offset the Projected Operating Fiscal Need, the Department shall assess the need to keep all units open for the full duration of the on-season and thereafter may either adjust the schedule of rents in an amount equal to fully fund the Projected Operating Fiscal Need or in a lesser amount if any projected operating costs can be reduced by reducing any component of operating costs or the availability of units.

(3) (A) The Department, through its Contractors, shall notify affected residents by written notice no less than 60 days prior to the effective day of the proposed schedule of rents. In addition, the Department shall instruct its Contractors to concurrently post the notice in a visible place at the migrant center. The residents and public shall have a 20-day comment period after the notice in which to respond to the new proposed schedule of rents. The notice shall inform the residents of their rights to inspect and copy records on file with the Department's Contractor which are related to the request throughout this 20-day comment period. Upon completion of the 20-day comment period without formal challenge, the Department shall cause a 30-day notice to be served on the affected residents of the effective date of the new schedule of rents;

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however, the new schedule of rents shall not become effective prior to the beginning of the subsequent fiscal year.

(B) If the residents or residents' representative(s) file a notice with the Department opposing the proposed schedule of rents, the Department shall consider all opposing comments and make a formal determination to either adjust the proposed schedule of rents or accept the proposed schedule of rents. Thereafter, the Department shall cause a 30-day notice to be served on the affected residents of the effective date of the new schedule of rents and the amounts thereof.

(4) In addition to the other provisions of this subdivision (d), and after 30 days' written notice, the Department may impose an additional rent rate adjustment increase or decrease during the fiscal year if the amount of the General Fund appropriation for operating costs in the final State Budget is significantly different than that provided in the determination of the Projected Operating Fiscal Need.

(e) When establishing the 1998 on-season base rent, an additional fifty cents (\$.50) per day shall be charged for a three-bedroom unit, and an additional one dollar (\$ 1.00) per day shall be charged for a four-bedroom or larger unit. In any year, any household which occupies more than one two-bedroom unit shall pay one dollar (\$1.00) per day for the second two-bedroom unit, in accordance with Section 7612 occupancy standards.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

HISTORY

1. Amendment filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).
2. Amendment filed 11-2-88; operative 12-2-88 (Register 88, No. 46).
3. Amendment of subsections (b) and (c), amendment and redesignation of sub-section (d) as (d)(1), new subsections (d)(1)(A)-(d)(5)(B) and amendment of subsection (e) filed 2-22-96; operative 2-22-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 8).
4. Amendments filed and operative 2-26-96 invalidated by *Martinez v. California Department of Housing and Community Development*, Sacramento Superior Court No. 96CS 01752 (December 19, 1996).
5. Amendment filed 3-27-97 as an emergency; operative 3-27-97 (Register 97, No. 13). A Certificate of Compliance must be transmitted to OAL by 7-25-97 or emergency language will be repealed by operation of law on the following day.
6. Reinstatement of section as it existed prior to 3-27-97 order by operation of Government Code section 11346.1(f) (Register 97, No. 31). Emergency amendment filed and operative 3-27-97 invalidated by *Orejel v. California Department of Housing and Community Development*, Sacramento Superior Court No. 96CS01752 (May 28, 1997).
7. Change without regulatory effect repealing amendments filed and operative 2-26-96 filed 7-31-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 3 1).
8. Editorial correction amending section and HISTORY 6 and adding HISTORY 7 (Register 98, No. 12).
9. Amendment filed 3-17-98; operative 3-17-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 12).

§ 7651. Rent Raises.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 2-26-82; effective thirtieth day thereafter (Register 82, no. 9).
2. Amendment filed 11-2-88; operative 12-2-88 (Register 88, No. 46).
3. Repealer filed 3-17-98; operative 3-17-98 pursuant to Government Code Section 11343.4(d) (Register 98, No. 12).

§ 7652. Requirements.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).
2. Repealer filed 11-2-88; operative 12-2-88 (Register 88, No. 46).

§ 7653. Special Rent Increases.

(a) The Department shall approve a contractor-initiated rent increase of up to \$1 per day per unit at a migrant housing center if all of the following conditions are met:

EXHIBIT B

(1) The Contractor provides to the resident council for review and written comment a demonstration of a significant and critical need for the rent increase. Items which may create such a need include health and safety repairs, rehabilitation, maintenance of units, and increase in operating costs, other than personnel or administration. The resident council shall provide comments within 30 days of receipt of demonstration.

(2) After the resident-council provides written comments and at least 30 days prior to a hearing on the proposed rent increase, the contractor provides the residents and the resident council with a written notice, approved by the Department, which sets forth the proposed amount and specific purposes of the increase, and the time and date of the hearing at which the residents may comment on the amount and purposes of the increase. The Department shall approve or disapprove the proposed notice in writing within 30 days of a request for a review from the contractor. The hearing shall be held at the center for which the rent increase is proposed, and the written comments of the resident council shall be made available for review by the residents.

(3) Following the hearing, the contractor provides the Department with the following items:

(A) A written summary of all written and oral comments by residents and by resident council and a resolution from the resident council regarding the rent increase and its purpose;

(B) A detailed justification for the cost and nature of actions which address the items comprising the need for the rent increase;

(C) Any other relevant information the contractor may wish to provide.

(4) The Department provides written approval or disapproval of all or part of the rent increase within 30 days of the receipt of the items required in subsection (a)(3). The Department's approval shall be based on a determination that the need and the costs of activities, which address the items comprising the need, are reasonable and valid.

(5) Upon receipt of Department approval of the increase, the contractor provides at least 30 days written notice to each resident and the resident council of the increase. This provision does not apply if the contractor implements the increase in rent at the beginning of the next season following receipt of Department approval; however, the contractor shall provide written notice of the following to each resident at the time of the execution of the lease:

(1) The amount of rent increase from the previous season; and (2) the standard used to calculate the increase.

(b) The Department shall approve a resident council initiated rent increase of up to \$ 1.00 per day per unit at a migrant housing center if all of the following conditions are met:

(1) The resident council provides notice to the migrant center residents of the discussion of a special rent increase 15 days prior to the resident council meeting at which the special rent increase will be discussed. The resident council meeting shall be a public hearing, at which residents in attendance shall have the opportunity to vote on the proposed special rent increase.

(2) Following the resident council meeting, the resident council shall provide to the contractor for review and written comment a demonstration of a significant and critical need for the rent increase. Items which may create such a need include health and safety repairs, rehabilitation, maintenance of units, and increase in operating costs, other than personnel or administration. The contractor shall provide the resident council with comments and recommendations within 15 days of receipt of the demonstration.

(3) Within 15 days of the resident council approval of comments and recommendations from the contractor, the contractor provides the Department with the following items:

EXHIBIT B

(A) A written summary of all written and oral comments by the residents and by the resident council, a record of the vote by center residents in attendance at the public hearing, and a resolution from the resident council regarding the rent increase and its purpose;

(B) A detailed justification for the cost and nature of actions which address the items comprising the need for the rent increase;

(C) Any other relevant information the contractor may wish to provide.

(4) The Department provides written approval or disapproval of all or part of the rent increase within 30 days of the receipt of the items required in subsection (b)(3). The Department's approval shall be based on a determination that the need and the costs of activities, which address the items comprising the need, are reasonable and valid. The Department shall consider whether the requirements of this subsection have been met and whether the need and the cost of activities addressing the need are reasonable and valid.

(5) Upon receipt of Department approval of the increase, the contractor provides at least 30 days written notice to each resident and the resident council of the increase. This provision does not apply if the contractor implements the increase in rent at the beginning of next on-season following receipt of Department approval; however, the contractor shall provide written notice of the following to each resident at the time of the execution of the lease:

(1) the amount of rent increase from the previous season; and

(2) the standard used to calculate the increase.

(c) Any funds collected pursuant to this section shall be obligated by the Department for use at the center from which they originated, and shall not supplant any other funds that would have been allocated to the center for operations or rehabilitation costs. The contractor shall have primary responsibility for accounting for funds collected pursuant to this section; shall remit the funds collected to the Department; and shall report the name of the center from where the special rents were collected, the date the special rents were collected (less any rent refunds) and the net amount remitted to the Department. Rent collected under this section shall be remitted by the contractor to the Department by the tenth (10th) of each month. Upon receipt of the Department's approval, the contractor shall hold special rents in a special OMS Resident fund account and shall disburse the special rent funds only for the use for which the special rent was authorized. The contractor shall provide a detailed reporting of the funds received and expended as required by the Department.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

HISTORY

1. New section filed 11-2-88; operative 12-2-88 (Register 88, No. 46).

2. Amendment of subsections (a)(1)-(2), (a)(3)(A), and (a)(5), new subsections (b)-(b)(5) and subsection relettering, and amendment of newly designated subsection (c) filed 2-22-96; operative 2-22-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 8).

3. Change without regulatory effect amending subsections (a)(1)-(2), (a)(3)(A), and (a)(5), repealing subsections (b)-(b)(5), subsection relettering, and amendment of newly designated subsection (c) filed 7-31-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 31).

4. Amendment filed 3-17-98; operative 3-17-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 12).

EXHIBIT B

Article 6. Contractor Responsibilities

§ 7660. Contractor Responsibilities.

Each contractor shall provide administrative, fiscal, and management services, employ staff, and purchase, rent, and use supplies and materials as needed to operate, maintain, and protect each migrant housing center in accordance with these regulations and the contract executed between the Department and contractor.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).

§ 7661. Contracts.

All contracts between the Department and any contractor shall be consistent with these regulations, and where there is a conflict, the regulations shall prevail.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).

§ 7662. Maintenance.

Each contractor shall maintain each migrant housing center in a safe and sanitary condition in accordance with standards prescribed by the Department, state law, and local ordinance.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).

§ 7663. Records.

Contractor shall maintain such records and accounts, including property, personnel, and financial records, as are deemed necessary by the Department to ensure a proper accounting of all state and other migrant center funds and shall retain the same for at least three years after the expiration of each annual contract. The Department shall have access to and the right to examine and audit all reports, records, books, papers, or other documents related to contractor's performance under each annual contract.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).

§ 7664. Resident Council.

Not more than 30 days after a migrant housing center has:

- (a) Become at least 50% occupied; or
- (b) Upon petition of 50% of the residing heads of households, contractor shall assist and encourage the residents of the migrant housing center to elect from among themselves a Resident Council which shall have the following responsibilities:

EXHIBIT B

- (1) Elect from among themselves a chairperson;
- (2) Advise the contractor and/or the Department on any matter pertinent to the operation of the migrant housing center;
- (3) Represent all residents of the migrant housing center on matters which properly should be presented to the contractor and/or the Department.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).

§ 7665. Alterations to Migrant Centers.

Each contractor shall not make nor shall permit to be made any substantial alteration or addition to any migrant center without written consent of the contractor and the Department. This section shall not apply to facilities owned exclusively by a contractor or other interests and not meant for the use of migratory agricultural workers.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).

EXHIBIT C

Office of Migrant Services Sample Standard Agreement

AUTHORITY, PURPOSE AND SCOPE OF WORK

1. Authority and Purpose

Pursuant to Chapter 8.5 (commencing with Section 50710) of Part 2, Division 31, of the Health and Safety Code ("Statutes"), the Department of Housing and Community Development ("Department") is responsible for the administration of a program in order to provide housing and housing-related services for migratory workers and their families in California and may contract with housing authorities and other appropriate local, public and private non-profit agencies for the purpose of securing or obtaining such housing and other related services.

In accordance with the Statutes and the Office of Migrant Services (OMS) Program Regulations set forth in California Code of Regulations ("CCR") Title 25, Division 1, Chapter 7, Subchapter 7, commencing with Section 7600 ("Program Regulations"), the Department shall provide housing units and related facilities at the location set forth in Exhibit A-1 of this Agreement ("Housing Center(s)"). These housing units and related facilities shall at all times remain legally severable from the real property on which they are placed and the title of these units shall be in the name of the Department. Upon termination of this Agreement, the Department shall have the right to remove these housing units and related facilities without reimbursement to the Contractor.

The Contractor agrees to comply with the terms and conditions of this Agreement and all Exhibits hereto.

2. Scope of Work

- A. The Contractor shall permit occupancy of the Housing Center(s) for migratory workers and their families in accordance with Section 7611 of the Program Regulations and provide operations services ("Work") which are further described as all administrative, fiscal and management services; employment of staff; and purchasing, rental or use of supplies and materials as needed to operate, maintain and protect the Housing Center pursuant to the terms and conditions of this Agreement. The Department reserves the right to review and approve all Work performed by the Contractor in relation to this Agreement. Any proposed revision to the Work must be submitted in writing for review and approval by the Department. Any approval shall not be presumed unless such approval is made by the Department in writing.
- B. The Work shall generally consist of Operations and Maintenance of the Housing Center(s).
- C. The commonly accepted name and street address of the Housing Center(s) is

EXHIBIT C

«Center_Name» Migrant Center
«Ctr_Address»
«Ctr_City», CA «Ctr_Zip»

3. **Term**

A. The Contractor shall complete the activities as set forth in this Agreement and be fully funded, pursuant to Exhibit B, prior to July 1, 2017.

4. **Department Contract Coordinator**

The coordinator of this Agreement for the Department is the Manager of the OMS Program, Division of Financial Assistance, or the Manager's designee. Unless otherwise informed, any notice, report, or other communication required by this Agreement shall be mailed by first class mail to the Department Coordinator at the following address:

OMS Program Manager
Department of Housing and Community Development
Division of Financial Assistance
Post Office Box 952054, MS 500
Sacramento, CA 94252-2054

5. **Contractor Contract Coordinator**

The Contractor's Contract Coordinator for this Agreement is listed below. Unless otherwise informed, any notice, report, or other communication required by this Agreement shall be mailed by first class mail to the contact at the following address:

«Contractor»
«FIRST_NAME» «LAST_NAME»
«ADDRESS_HQ»
«CITY», CA «ZIP»
«Email»

EXHIBIT C

BUDGET DETAIL AND PAYMENT PROVISIONS

1. Agreement Amount

- A. For the purposes of performing the Work, the Department agrees to provide the amount of \$xxx,xxx.00 for fiscal year 2015/16 and \$xxx,xxx.00 for fiscal year 2016/17, not to exceed \$xxx,xxx.00 (total for *two-years funding pursuant to this biannual contract*). At the sole discretion of the Department, this amount may be adjusted per annum in accordance with the grant allocation provided by the State, which may require an amendment to this Agreement.
- B. Unless amended, the Department is not liable for any costs for the Work in excess of the amount of this Agreement, nor for any unauthorized or ineligible costs.
- C. Funds provided under this Agreement shall be provided in the form of a grant only for the approved purposes and itemized amounts as stated in Exhibit B-1 Year One Operating Contract Budget and Exhibit B-2 Year Two Operating Contract Budget ("Budgets") attached hereto and incorporated herein.
- D. Upon Year 2 of this Agreement's term, Exhibit B-2 may be modified to adjust line item amounts in accordance with the Contractor's Year 2 allocation, as granted by the State.
- E. Any adjustments to the Year 1 or Year 2 Budget require an amendment to this agreement and written justification.

2. Disbursement of Funds

- A. Upon receipt of a certified resolution, determined to be legally sufficient by the Department, and the execution of this agreement, the Department agrees to disburse to the Contractor or its authorized agent, funds not to exceed the total amount stated in Paragraph 1.A of this Exhibit.
- B. The Department further agrees to disburse said funds only for the approved purposes and itemized amounts as described in the Budget.
- C. The Department shall reimburse the Contractor monthly in arrears for the Contractor's actual and necessary expenses in accordance with the Budget and upon receipt of signed timesheets, reserve accounts, tenant security deposit account, CARE account bank statements, rental income reports, itemized receipts, invoices, and any other documentation required by the Department. The Department shall withhold reimbursement until all required documentation is received and verified. At the end of each fiscal year, funds provided through this Agreement which are in excess of actual and necessary expenses may be disbursed and deposited into an OMS reserve account established and funded pursuant to Health and Safety Code Section 50710.1(b), provided the Department certifies there is no need to address reasonable general maintenance requirements or repairs, rehabilitation, and replacement needs of

EXHIBIT C

the requesting migrant farm labor center(s) which affect the immediate health and safety of residents. The cumulative balance shall not exceed 10 percent of the operating funds annually committed to the Contractor by the Department. Funds in the reserve account shall be used only for capital improvements such as replacing or repairing structural elements, furniture, fixtures, or equipment of the migrant farm labor center, the replacement or repair of which are reasonably required to preserve the migrant farm labor center. Withdrawals from the reserve account shall be made only upon receipt of the written approval of the Department detailing the amount and nature of expenditures. Withdrawals or expenditures made without prior Department approval are not subject to required repayment. This reserve account, all other reserve accounts, the tenant security deposit account, and the general operations account must be maintained separately from one another.

- D. Upon the effective date of this Agreement, the Contractor may, upon written request, obtain an advance of funds in an amount not to exceed twenty percent (20%) of the total Agreement amount, per annum, as stated in Paragraph 1.A. These advanced funds shall be applied against the first (6) six months of invoices until they are recaptured, for each year of funding provided under this Agreement.
- E. If the Contractor expends funds in a manner consistent with this Exhibit and the Budget on or after July 1, per annum, but before the Department executes this Agreement, these expenditures may be reimbursed from the advance provided by the Department pursuant to Paragraph 2.D. of this Exhibit. However, the Department will not reimburse these expenditures until this Agreement is executed by the Department.
- F. The Department shall disburse requested funds for Work performed on behalf of or by the Contractor, and documented by the Contractor, or for equivalent services that have been rendered to and documented by the Contractor, or for the actions that are to be performed and documented by the Contractor pursuant to statute, regulation, contract, or schedule.
- G. If the Contractor is in violation of any provision of this Agreement, the Department may, at its sole discretion, withhold payment of funds under this Agreement until such violations are corrected.

3. **Line Item Changes**

The Contractor may, upon prior written approval by the Department, transfer any approved allocations or portions thereof, to other cost categories listed in the Budget for that fiscal year. In no event, however, shall funds be transferred between fiscal years, nor shall the total amount of this Agreement be exceeded, without prior execution of a formal amendment to this Agreement.

4. **Special Funding Conditions**

- A. Funds allocated for Minor Rehabilitation as specified in line item 304 of the Budget shall be subject to the following provisions:

EXHIBIT C

- 1) Funds may be spent only for the items and activities, in the maximum amounts specified, and according to the priority expressed in Item F of the Budget.
 - 2) Notwithstanding Paragraph 3 of this Exhibit, these funds shall not be subject to transfer to other cost categories.
 - 3) No advances shall be provided by the Department from these funds. All reimbursements shall be in arrears and shall require submission of invoices and related supporting documentation in a manner directed by the Department.
 - 4) Any funds not expended upon the expiration of this Agreement shall be automatically disencumbered on that date and shall not be available for additional expenditures or reimbursements except as provided in Health and Safety Code Section 50710.1(b).
- B. Funds allocated to Water Conservation Grant Program (WCGP) as specified in line item 304a of the Year One Budget shall be subject to the following provisions:
- 1) Funds include the cost for labor and materials, and may be spent only for the items and activities, in the maximum amounts specified. These funds are not subject to line 401 (10% administrative support fee) of the Year One Budget.
 - 2) Notwithstanding Paragraph 3 of this exhibit, these funds shall not be subject to transfer to other cost categories.
 - 3) No advances shall be provided by the Department from these funds. Contractor will be required to cover the expense using line item 401 – Administrative Support Services or other non-OMS funds. All reimbursements shall be in arrears and shall require separate invoices accompanied with itemized receipts and a listing of all units that received low flow fixtures.
 - 4) All low flow fixtures specified in Item F of the Year One Budget shall be purchased and installed by February 28, 2016. An OMS representative will schedule and perform a visual inspection for compliance within ten (10) business days of installation.
 - 5) As applicable per Line Item F of the Year One Budget, Contractor must install faucet aerators rated at 1.5 gallons per minute (GPM) or less, showerheads rated at 2.0 GPM or less, urinals rated at 0.5 gallons per flush (GPF) or less, and toilets rated at 1.28 GPF or less.

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- 6) Any funds not expended upon the completion of work shall be automatically disencumbered and shall not be available for additional expenditures or reimbursements, without exception.
- 7) Contractor must submit Drought Action Matrix updates and water usage on a monthly basis.
- C. Funds allocated in Item B, line 209 "Major Equipment Repair/Maintenance" of the Budget shall be spent only for the items, and in the maximum amounts, specified in Item G of the Budget.
- D. Funds allocated in Item B, line 401 "Administrative Support Services" of the Budget shall be calculated as 10% of the total Budget per year, and shall be spent on administrative costs incurred by the Contractor to administer the OMS program.
- E. Before purchasing a motor vehicle, the Contractor shall submit documentation to the OMS Program Manager demonstrating that a competitive procurement process was followed and shall receive prior approval for the purchase from the Department.

5. **Availability of Funds**

The obligations under this Agreement are hereby made expressly contingent upon the availability of projected rental income and other funds for the purposes of performing the services identified in this Agreement. It is understood that this Agreement may have been written prior to the beginning of the fiscal year in order to expedite contract processing; however, should adequate funds not be appropriated by the Legislature for the current fiscal year or should other funds be reduced as a result of a court order or any other incident deemed legal and binding by the Department, the Department may exercise its option to cancel this Agreement or, at the Department's sole discretion, reduce the on-season period, unless the Department and the Contractor either amend this Agreement or mutually agree to budget reductions and a rescission of a portion of the encumbered funds.

EXHIBIT C

OFFICE OF MIGRANT SERVICES TERMS AND CONDITIONS

1. Seasonal Operations

- A. The Department shall designate a period of one hundred eighty (180) days each calendar year, unless otherwise extended or reduced by written agreement between the Department and the Contractor, during which the Housing Center(s) shall be open to migratory agricultural workers and their households for occupancy, which period will be referred to as the "on-season." The remaining period of time during each calendar year shall be referred to as the "off-season."
- B. During the on-season:
 - 1) All common facilities of the Housing Center(s) subject to this Agreement, other than the housing units, shall be available, as required by the Department, for the purpose of child care services, health care services, educational programs, and other services approved by the Department and the Contractor for the benefit of resident migratory agricultural workers and their households.
 - 2) Residents of the Housing Center(s), after prior notice to the Contractor, shall be permitted to use the common facilities of the Housing Center(s) at any time such facilities are not required for use of programs scheduled by the Department or the Contractor, such as child care programs, health programs, or educational programs.
- C. During the off-season, the Housing Center(s) shall be available for such other use and subject to such other conditions as mutually agreed upon in writing by the Department and the Contractor, which shall not be inconsistent or incompatible with the purposes of this Agreement.

2. Financial Management

A. Rents and Other Receipts

Pursuant to the Statutes, the Contractor shall collect when due all rents, charges, and other amounts receivable on the Department's account in connection with the management and operation of the Housing Center(s), in accordance with rates established by the Department. Such receipts collected under this provision shall be remitted by the Contractor to the Department via check by the 10th of each month to the following address:

California Department of Housing and Community Development
Attention: Accounting Branch
2020 W. El Camino Avenue, Suite 300
Sacramento, CA 95833

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B. Security Deposits

The Contractor shall collect, deposit, and disburse security deposits, if required, in compliance with any Department regulations or State laws governing tenant security deposits. Security deposits shall be deposited into a separate account from the General Operating account, reserve account and CARE account. This account shall be regularly maintained by the Contractor.

C. Account Maintenance

The Contractor shall maintain and safeguard all bank accounts associated with the Housing Center(s) in a way necessary to conduct their operations successfully and from which they may accurately report operational results for review, and otherwise comply with the terms of this agreement.

D. Accounting System

The Contractor shall develop a systematic method to record the business transactions of the Housing Center(s) that appropriately reflects the complexity of Housing Center(s) operations and the Department's requirements. The Contractor may be required to implement and use bookkeeping and accounting systems acceptable to the Department.

3. **Occupancy and Eviction**

The Contractor shall terminate occupancy of a housing unit by any individual pursuant to the reasons and procedures pursuant to Program Regulations. Whenever possible, prior to eviction of any person pursuant to Program Regulations, the Contractor shall use its best efforts to correct the problem with the Resident or through the Resident Council. All proceedings with regard to this paragraph shall be consistent with the Program Regulations.

4. **Maintenance**

The Contractor shall maintain the Housing Center(s) at all times in a safe and sanitary condition and in accordance with standards prescribed by State law, local ordinances, and the Department.

5. **Acquisitions and Property**

If property costing less than one hundred fifty dollars (\$150.00) per item is properly acquired with Agreement funds and is expected at the time of acquisition to be used indefinitely for the purpose for which it was purchased, title to such property shall vest with the Contractor at the time of acquisition. If property acquired with Agreement funds has a cost of \$150.00 or more per item or is not expected at the time of acquisition to be used indefinitely for the purpose for which it was acquired, title to such property shall vest with the Department. If property purchased under this Agreement is diverted to

EXHIBIT C

uses inconsistent with the purposes of this Agreement, the Contractor shall be liable for the replacement value of such property. If property with a unit price of \$5,000 or more is acquired or disposed of, the Contractor shall notify the Department within thirty (30) days of that acquisition or disposal so that the Department may properly account for acquisition or disposal of said property.

6. Termination of Agreement

- A. This Agreement may be terminated prior to the ending date of this Agreement without cause by the Contractor only upon conclusion of the on-season period, and the Department is provided thirty (30) days prior written notice. This Agreement may be terminated by the Department at any time, upon thirty (30) days prior written notice to the Contractor.
- B. In the event that the Contractor terminates this Agreement, the Contractor shall provide the Department or the Department's designee with an option to assume responsibility for the continued operation of the Housing Center(s), under the same terms and conditions contained in this Agreement, until another mutually agreeable location for the housing units and related facilities can be found and the housing units and related facilities are relocated to that site. The Department shall have one year from the date of exercise of said option to complete this operation and/or relocation.

7. Reporting Requirements

The Contractor shall provide the Department with written progress reports, Demographic Input Form, Monthly Occupancy Report, OMS Request for Disposal of Property, inventory of all OMS-owned equipment, Smog Inspection Report (as needed), and verification of annual opening and closing dates, at the times and in the format required by the Department.

8. Inspections

At all reasonable times during the term of this Agreement, and upon prior notice to the Contractor, representatives of the Department shall have access to the Contractor's premises for the purpose of ensuring compliance with this Agreement.

9. Contractors and Subcontractors

The Contractor shall not enter into any agreement with any subcontractor, for five thousand dollars (\$5,000.00) or more, without the prior written approval from the Department. Such approval shall not be unreasonably withheld by the Department. A subcontractor is not eligible to receive funds if they are not licensed, not in good standing with the State of California, or is in any other way determined to be ineligible by the Department at its sole and reasonable discretion. Any agreement between the Contractor and subcontractors shall include all relevant terms and conditions of this Agreement and its attachments. In the event the Contractor purchases materials or

EXHIBIT C

services or subcontracts performance of this Agreement, the Contractor shall adopt the following procedures which shall be implemented in a manner consistent with State law;

- A. The Contractor shall invite bids for subcontracts, services and/or materials from as many prospective bidders as practical, and receive no fewer than three (3). Any deviations from this process must be pre-approved by OMS prior to entering an agreement with a subcontractor.
- B. The Contractor shall award the rehabilitation or construction contract and/or service or purchase agreement to the lowest responsible bidder or reject all bids; provided, however, that no awards shall be made without prior written approval of the State.
- C. The Contractor shall award no subcontract, service contract and/or purchase agreement if the lowest responsible bid exceeds that amount allocated to the corresponding budget item in Exhibit B (unless modified in writing as permitted under this Agreement).
- D. The Contractor shall maintain and make available to the State detailed records and accounts of all subcontracts, purchases of materials and/or services made under the above procedure.

10. Waiver

No waiver of any breach of this Agreement shall be held to be a waiver of any other or subsequent breach. All remedies afforded pursuant to this Agreement shall be taken and construed as cumulative; that is, in addition to every other remedy provided therein or by law. The failure of the Department to enforce at any time the provisions of this Agreement, or to require at any time performance by the Contractor of any of the provisions contained herein, shall in no way be construed to be a waiver of such provisions nor to affect the validity of this Agreement or the right of the Department to enforce such provisions.

11. Force Majeure

Neither the Department nor the Contractor shall be deemed to be in default in the performance of the terms of this Agreement if either party is prevented from performing the terms of this Agreement by causes beyond its control, including, without being limited to: acts of God or the public enemy; interference, rulings or decisions by municipal, Federal, State, or other governmental agencies, boards or commissions; any laws and/or regulations of such municipal, State, Federal, or other governmental bodies; or any catastrophe resulting from flood, fire, explosion, or other causes beyond the control of the defaulting party. If any of the stated contingencies occur, the party delayed by force majeure shall immediately give the other parties written notice of the cause of delay. The party delayed by force majeure shall use reasonable diligence to correct the cause of the delay, if correctable, and if the condition that caused the delay is corrected, the party delayed shall immediately give the other parties written notice thereof and shall resume operations under this Agreement.

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12. Licenses and Permits

The Contractor shall procure or cause to be procured all permits and licenses necessary to accomplish the Work set forth in this Agreement, and give all notices necessary and incident to the lawful performance of the Work. The Contractor shall keep informed of, observe, comply with, and cause all of its agents and employees to observe and comply with all prevailing Federal, State, and local laws, rules and regulations made pursuant to those Federal, State, and local laws, which in any way affect the conduct and performance of the Work set forth in this Agreement.

13. Litigation

- A. If any provision of this Agreement, or an underlying obligation, is held invalid by a court of competent jurisdiction, such invalidity, at the sole discretion of the Department, shall not affect any other provisions of this Agreement and the remainder of this Agreement shall remain in full force and effect. Therefore, the provisions of this Agreement are, and shall be, deemed severable.
- B. The Contractor shall notify the Department immediately of any claim or action undertaken by or against it, which affects or may affect this Agreement or the Department and shall take such action with respect to the claim or action as is consistent with the terms of this Agreement and the interests of the Department.
- C. The Department, promptly after receiving notice thereof, shall notify the Contractor in writing of the commencement of any claim, suit, or action against the Department or its officers or employees for which the Contractor must provide indemnification under this Agreement. To the extent permitted by law, the Department shall authorize the Contractor or its insurer to defend such claims, suits or actions and shall provide it or its insurer, at the Contractor's expense, information and assistance both necessary and available for such defense. The failure of the Department to give such notice, information, authorization or assistance, shall not relieve the Contractor of its indemnification obligations.

14. Disputes

Except as otherwise provided in this Agreement, any dispute arising under or relating to the performance of this Agreement shall be reviewed and decided solely by the Department OMS Program Manager. The Manager's decision shall be provided to the Contractor in writing. The decision of the Program Manager shall be final and conclusive unless within thirty (30) days from the date of receipt of such a copy, the Contractor transmits to the Department a written appeal. Pending the final decision by the Director of the Department or Designee, the Contractor shall proceed diligently with the performance of this Agreement and in accordance with the written decision of the Program Manager which is the subject of the Contractor's appeal.

EXHIBIT C

15. Audit/Retention and Inspection of Records

The Contractor agrees that the Department or its delegatee will have the right to review, obtain, and copy all records pertaining to performance of this Agreement. The Contractor agrees to provide the Department or its delegatee with all relevant information requested and shall permit the Department or its delegatee access to its premises, upon reasonable notice, during normal business hours for the purpose of interviewing employees and inspecting and copying such books, records, accounts and other material that may be relevant to a matter under investigation for the purpose of determining compliance with Public Contract Code ("PCC") § 10115, et seq., Government Code ("GC") § 8546.7 and 2 CCR §1896.60 et seq. The Contractor further agrees to maintain such records for a period of three (3) years after final payment under this Agreement.

The Contractor shall comply with the caveats and be aware of the penalties for violations of fraud and for obstruction of investigation as set forth in PCC § 10115.10.

16. Insurance

- A. The Contractor shall carry, maintain, and enforce general liability and property insurance in the amounts not less than \$1,000,000.00 per occurrence. Fire insurance must be in an amount to adequately protect the interests of the contractor and the State of California and its officers and employees. All liability coverage must name the State of California as Additional Insured. All property coverage must name the State of California as Loss Payee with a maximum \$25,000.00 deductible per occurrence. For additional information on the Department's Insurance Guidelines, please refer to our website at http://www.hcd.ca.gov/financial-assistance/asset-management-and-compliance/Insurance_Guidelines.pdf.
- B. The Contractor shall pay premiums out of the General Operating Account and premiums will be treated as an operating expense.
- C. The Contractor shall investigate and furnish the Owner with full reports on all accidents, claims, and potential claims for damage relating to the Project. The Contractor will cooperate with the Owner's insurers in connection therewith.

17. Prevailing Wage

- A. Where funds provided through this Agreement are used for construction work, or in support of construction work, Contractor shall ensure compliance with the requirements of the Labor Code commencing with Section 1720 (which pertains to the payment of prevailing wages and administered by the California Department of Industrial Relations).
- B. For the purposes of this requirement "construction work" includes, but is not limited to rehabilitation, alteration, demolition, installation or repair done under contract and paid for, in whole or in part, through this Agreement. All construction work shall be

EXHIBIT C

done through the use of a written contract with a properly licensed building contractor incorporating these requirements (the "construction contract"). Where the construction contract will be between the Contractor and a licensed building contractor, Contractor shall serve as the "awarding body" as that term is defined in the Labor Code. Where Contractor will provide funds to a third party that will enter into the construction contract with a licensed building contractor, the third party shall serve as the "awarding body." The construction contract and any amendments thereto shall be subject to the prior written approval of the Department. Prior to any disbursement of funds, including but not limited to release of any final retention payment, the Department may require a certification from the awarding body that prevailing wages have been or will be paid.

- C. Notwithstanding any other provisions of this Agreement, after seeking appropriate recourse as set forth in the Section above, any controversial claim arising out of or relating to this Agreement or breach thereof shall be settled by arbitration at the election of either party in accordance with California Public Contract Code Section 10240 et seq., and judgment or award rendered by the arbitration may be entered in any court having jurisdiction thereof.

EXHIBIT C

SPECIAL TERMS AND CONDITIONS

Management Agreement for United States Department of Agriculture Rural Development (RD) Financed Multiple Family Housing Centers

1. General

A. Appointment and Acceptance

The Department appoints the Contractor to manage the property described in Paragraph 1.B. of this Exhibit, and the Contractor hereby accepts the appointment, subject to the terms and conditions set forth in this Agreement.

B. Housing Center(s) Description

The property to be managed by the Contractor under this Agreement is a housing center ("Housing Center(s)") consisting of the land, buildings, and other improvements hereto identified as Housing Center(s) Number «RD_Ctr_Nmbr». The Housing Center(s) is further described as follows:

Name:	«Center_Name»		
Location:			
City:	«Ctr_City»		
County:	«COUNTY»		
State:	California		
No. of Dwelling Units:	«Number_Units»		
Type of Units:			
[X]	[]	[]	[]
Family	Elderly	Mixed	Congregate

C. Identity of Interest

The Contractor shall disclose to the Department and the United States Department of Agriculture Rural Development ("RD") any and all identities of interest that exist or shall exist between the Contractor and the Department, suppliers of material and/or services, or vendors in any combination of relationship.

D. RD and Department Requirements

In performing its duties as prescribed in this Agreement, the Contractor shall comply with all relevant requirements of RD and the Department which include preparation of forms, exhibits and reports in the format prescribed by RD and the Department.

EXHIBIT C

E. Plans and Specifications

As soon as possible, the Department shall furnish the Contractor with a complete set of "as-built" plans and specifications and copies of all guarantees and warranties relevant to construction, fixtures, and equipment. With the aid of this information and inspection by competent personnel, the Contractor shall become thoroughly familiar with the character, location, construction, layout, plan and operation of the Housing Center(s).

F. Compliance with Governmental Orders

The Contractor shall take such action as may be necessary to comply promptly with any and all governmental orders or other requirements affecting the Housing Center(s), whether imposed by Federal, State, county or municipal authority subject, however, to the limitation stated in Paragraph 3.D. of this Exhibit with respect to litigation and repairs. The Contractor shall take no action so long as the Department is contesting, or has affirmed its intention to contest, any such order or requirement. The Contractor shall notify the Department in writing of all notices of such orders or other requirements, within seventy-two (72) hours from the time of their receipt of such notices.

G. Nondiscrimination

In the performance of its obligations under this Agreement, the Contractor shall comply with the provisions of any Federal, State or local Fair Housing law prohibiting discrimination in housing on the grounds of race, color, religion, sex, familial status, national origin, or handicap. Other nondiscrimination provisions include Title VI of the Civil Rights Act of 1964 (Public Law 88-352, 78 Stat. 241), Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, as they relate to the RD multi-family housing program.

H. Fidelity and Insurance Coverage

- 1) The Department shall inform the Contractor of insurance required for the Housing Center(s) and its operations. The Contractor shall obtain such insurance and maintain such insurance in effect at all times. Premiums shall be paid out of the General Operating Account, and treated as operating expenses. All insurance shall be placed with companies, on conditions, in amounts, and with beneficial interests appearing thereon as shall be acceptable to the Department and RD provided that the same shall include public liability coverage, with the Contractor designated as one of the insured, in amounts acceptable to the Contractor, the Department and RD. The Contractor shall investigate and furnish the Department with full reports on all accidents, claims, and potential claims for damage relating to the Housing Center(s), and shall cooperate with the Department's insurers in connection therewith.
- 2) The Contractor shall furnish, at its own expense, fidelity coverage to the Department, with copy to the RD Servicing Office on the employees of the Contractor who are entrusted with the receipt, custody, and disbursement of any

EXHIBIT C

Housing Center(s) monies, securities, or readily saleable property other than money or securities. The minimum coverage of forty thousand dollars (\$40,000) shall be provided. The Contractor shall obtain coverage from a company licensed to provide coverage in the project locality. Coverage shall be in force to coincide with the assumption of fiscal responsibility by the Contractor until that responsibility is relinquished.

- 3) Endorsement listing RD projects separate from other projects or operations shall be obtained and made part of the coverage policy or bond. The other terms and conditions of the coverage, and the surety thereon, shall be subject to the requirements and approval of the Department.

I. Purchases and Contracts

- 1) With prior approval of the Department and as allocated in the Budget, the Contractor shall obtain contracts, materials, supplies, utilities, and services on the most advantageous terms to the Housing Center(s), and the Contractor is authorized to solicit bids, either formal or informal, for those items which can be obtained from more than one source. The Contractor shall secure and credit to the Department all discounts, rebates, or commissions obtainable with respect to purchases, service contracts, and all other transactions on the Department's behalf.
- 2) The Contractor shall employ persons and/or services to perform duties and responsibilities at the Housing Center(s) site as described in the Management Plan. Compensation of such persons and/or services shall be paid as a direct expense to the Housing Center(s) as specified in the Management Plan and this Exhibit. The Contractor shall employ sufficient resources within the Contractor's operation to fulfill Contractor's obligation to the Department under the terms of this Exhibit.

2. Management Plan

- A. The Contractor shall advise and assist the Department in the preparation of the Management Plan for the Housing Center(s) specified in Paragraph 1.B. of this Exhibit.
- B. The Contractor shall be provided with the completed Management Plan prior to execution of this Agreement, which shall include the following:
 - 1) Policies and procedures to be followed in the management of the Housing Center(s);
 - 2) Identification of Contractor's duties and supervisory relationships for project site and office staff; and
 - 3) Pro rata division of singularly incurred operating expense common to the Contractor and the Department.

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- C. The Contractor shall periodically review the Management Plan and advise the Department of necessary or desirable changes.

3. Budget

- A. The Contractor shall prepare a proposed Operating Contract Budget for submission to the Department. For each subsequent fiscal year the Contractor shall prepare a new budget. Adjustments exceeding 10% of the proposed Operating Contract Budget require an amendment to this Agreement.
- B. The Department shall forward the proposed budget to RD using the formats and categories of RD Form 3560-7, "Multiple Family Housing Center(s) Budget".
- C. The Contractor shall operate and maintain the Housing Center(s) within reasonable tolerance of the expense category subtotals of the accepted budget as stated in Exhibit B-1, Year 1 and Exhibit B-2, Year 2 ("Budget") as defined by RD and the Department.
- D. Notwithstanding any other provisions of this Agreement, the Contractor shall obtain prior written approval from the Department for any expenditure of the Housing Center(s) which exceeds five thousand dollars (\$5,000) in any one instance for:
 - 1) Litigation;
 - 2) Labor;
 - 3) Materials; or
 - 4) Other expenditure in connection with the maintenance and repair of the Housing Center(s).

This limitation is not applicable for recurring expenses within the limits of the Budget; or any emergency repairs which involve manifest danger to persons or property, or that are required to avoid suspension of any necessary service to the Housing Center(s). In the event that emergency repairs are necessary, the Contractor shall contact the Department as promptly as possible.

4. Housing Center(s) Management

The Contractor shall:

- A. Operate the Housing Center(s) according to the Management Plan and in compliance with the Department's loan agreement with RD, this Agreement, and any applicable RD and Department regulations and guidelines.
- B. Participate in any conference with RD and/or Department officials involving management of the Housing Center(s).

EXHIBIT C

- C. Participate in the on-site final inspection of the Housing Center(s), required by RD prior to initial occupancy.
- D. Prepare Form RD 3560-7 as a quarterly report and Department Monthly Operating and Rent Collection Reports beginning at initial occupancy until no longer required by RD or the Department.
- E. Represent the Department in matters related to management of the Housing Center(s), including but not limited to the Department's interest at tenant grievance hearings.

5. **Liaison with Architect and General Contractor**

During the planning and construction phases, maintain direct liaison with the architect and general contractor, in order to:

- A. Coordinate management concerns with the design and construction of the Housing Center(s);
- B. Facilitate completion of any corrective work; and
- C. Facilitate the Contractor's responsibilities for arranging utilities and services pursuant to Paragraph 9.F. of this Exhibit.

The Contractor shall keep the Department advised of all significant matters of this nature.

6. **Rentals and Leases**

In accordance with the Management Plan and all other provisions of this Agreement, the Contractor agrees to:

- A. Market the rental housing units, observing all requirements of the Affirmative Fair Housing Marketing Plan, and maintain records of any marketing activity for compliance review purposes.
- B. Show the premises and available units to all prospective tenants without regard to race, color, national origin, sex, religion, familial status, handicap or age; and shall provide for reasonable accommodation to individuals with disabilities.
- C. Take and process all rental applications. If an application is rejected, inform the applicant of the reason for rejection in writing. The rejected application, with the written reason for rejection, shall be kept on file until a compliance review has been conducted. If the rejection is due to information obtained from a Credit Bureau, the source of the report must be revealed to the applicant according to the Fair Credit Reporting Act.

EXHIBIT C

- D. Follow tenant selection policy as stipulated in the Management Plan, and maintain a current list of prospective tenants.
- E. Prepare and execute all dwelling leases and parking permits in a form approved by and in compliance with the relevant provisions of RD, the Department and other State regulations, in its name, identified thereon as the Contractor for the Department.
- F. In no event, collect rent or other charges exceeding amounts specified by the Department for dwelling units, facilities and other services.
- G. Determine eligibility and prepare eligibility certifications in accordance with RD and Department requirements using reports furnished by the Department.
- H. Counsel all prospective tenants regarding eligibility, and when available, make referrals to local social service and community agencies in cases of financial hardship or other circumstances deemed appropriate by the Contractor.
- I. Ensure full compliance with the terms of the lease by each tenant and emphasize voluntary compliance.
- J. Avoid involuntary termination of tenancies to the maximum extent consistent with sound management of the Housing Center(s).
- K. Initiate actions, subject to the Management Plan, and RD and Department regulations, to terminate any tenancy when, in the Contractor's judgment there is material noncompliance with the lease or other good cause for such termination.
- L. In the case of termination, properly notify the tenant of his/her right to appeal the proposed action according to RD and Department regulations. Attorney's fees and other necessary costs incurred in connection with such actions shall have advance by the Department and be paid out of the General Operating Account within the itemized limit of the Budget.
- M. Represent the Department's interest at tenant grievance hearings.

7. Reports

- A. Upon request by the Department, RD or the Office of the Inspector General, the Contractor shall provide reports regarding the Housing Center(s)'s financial, physical or operational condition and occupancy.
- B. The Contractor shall assist the Department in initiating or completing all additional reporting forms and data prescribed by RD affecting the operation and maintenance of the Housing Center(s).

EXHIBIT C

8. **Financial Management**

A. Rents and Other Receipts

The Contractor shall collect when due all rents, charges, and other amounts receivable on the Department's account in connection with the management and operation of the Housing Center(s). Such receipts shall be deposited immediately in the _____ project's General Operating Account with _____, whose deposits are insured by an agency of the Federal Government.

B. Security Deposits

The Contractor shall collect, deposit, and disburse security deposits, if required, in compliance with any Department regulations or State laws governing tenant security deposits. Security deposits shall be deposited in a separate account, at the Bank indicated above. This account shall be carried in the Department's name and designated of record as: "_____ Security Deposit Account." This account shall be regularly maintained by the Contractor.

C. Account Maintenance

The Contractor shall maintain and safeguard the Housing Center(s)'s General Operating Account and tenant's Security Deposit Account according to the current requirements set forth in Paragraph XIII.B.2 of Exhibit B of Subpart C of Part 1930, which is part of the "Multiple Housing Management Handbook."

D. Accounting System

The Contractor shall develop a systematic method to record the business transactions of the Housing Center(s) that appropriately reflects the complexity of Housing Center(s) operations and the Department's requirements. The Contractor may be required to implement and use bookkeeping and accounting systems acceptable to RD and the Department.

9. **Housing Center Maintenance and Repair**

The Contractor agrees to:

- A. Maintain and repair the Housing Center(s) in accordance with the Management Plan and local codes, and keep it in a condition acceptable to the Department and RD at all times. This shall include, but is not limited to cleaning, painting, decorating, plumbing, carpentry, grounds care, energy conservation measures and practices; and other such maintenance and repair work as may be necessary, subject to any limitations imposed by the Department in addition to those contained herein. Special attention shall be given to preventive maintenance, and to the greatest extent feasible, the services of regular maintenance employees shall be used.

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- B. Purchase all materials, equipment, tools, appliances, supplies, and services necessary for proper maintenance and repair of the Housing Center(s) as stipulated in the Management Plan, Budget, and/or other written documentation from the Department.
- C. Subject to the Department's prior written approval, contract with qualified independent contractors for the maintenance and repair of air-conditioning and heating systems, elevators, and for extraordinary repairs beyond the capability of regular maintenance employees. Any identity of interest shall be identified in accordance with Paragraph 1.C. of this Exhibit.
- D. Systematically receive and promptly investigate all service requests from tenants, take such action as may be justified, and maintain records of the same. Emergency requests shall be received and services provided on a twenty-four (24) hour basis. Serious complaints shall be reported to the Department after investigation.
- E. Advise the Department of any cost-effective and adaptable energy conservation measures or practices that should be used in the Housing Center(s). The Contractor shall encourage their use and shall assist the Department during any installation of these measures or institution of practices.
- F. In accordance with the Management Plan, make arrangements for utilities including water, electricity, gas, fuel oil, sewage and trash disposal, vermin extermination, decorating, laundry facilities, and telephone service.

10. Taxes, Fees and Assessments

The Contractor shall pay all taxes, assessments and government fees promptly when due and payable. The Contractor shall evaluate local property taxes to insure they bear a fair relationship to the Housing Center(s) value and if they do not, at the direction of the Department, appeal such taxes on behalf of the Department or assist the Department in the appeal, whichever is required by local jurisdiction or is appropriate.

11. Contractor's Compensation

The Contractor shall be compensated for its services for providing management described in this Agreement, and the Department's Management Plan, by monthly fees, to be paid from the General Operating Account and treated as a project operation and maintenance expense. Such fees shall be payable on the first day of each month for the preceding month.

12. Term of Agreement

This Exhibit shall be in effect for the period as stated in Exhibit A, Paragraph 3 of this Agreement, subject, however, to the following conditions:

EXHIBIT C

- A. This Agreement shall not be binding upon the Contractor and Department ("Principal Parties") until approved by RD.
- B. This Agreement may be terminated, only upon conclusion of the on-season period by the mutual consent of the Principal Parties, provided that at least thirty (30) days advance written notice thereof is given to either Principal Party and reasons for the termination are submitted to RD.
- C. In the event that a petition in bankruptcy is filed by or against either of the Principal Parties, or in the event that either makes an assignment for the benefit of creditors or takes advantage of any insolvency act, the other party may terminate this Agreement without notice to the other however, a prompt written notice outlining the basis for such termination is submitted to RD.
- D. It is expressly understood and agreed by and between the Principal Parties that the Department may terminate this Agreement with cause upon the issuance of a 30-day written notice of cancellation to the Contractor. It is further understood and agreed that no liability shall attach to either of the Principal Parties in the event of such termination, to the extent permitted by State law.
- E. Upon termination of this Agreement, the Contractor shall submit to the Department all Housing Center(s) books and records and any financial statements required by RD. After the Principal Parties have accounted to each other with respect to all matters outstanding as of the date of termination, the Department shall promptly reimburse the Contractor all sums due after deduction of any sums or damages due the Department, in form and principal amount satisfactory to the Contractor, against any obligations or liabilities which the Contractor may properly have incurred on behalf of the Department hereunder.

13. Contractor's Indemnification

Notwithstanding any provision of this Agreement, it is understood and agreed:

- A. The Department has assumed and shall maintain its responsibility and obligation throughout the term of this Exhibit for the finances and the financial stability of the Housing Center(s), to the extent that funds are appropriated to the Department by the legislature for this purpose; and
- B. The Contractor shall have no obligation, responsibility or liability to fund authorized project costs, expenses, or accounts other than those funds generated by the Housing Center(s) itself or provided to the Housing Center(s) or to Contractor by Department. In accordance with the foregoing, Department agrees that Contractor shall have the right at all times to secure payment of its compensation, as provided for under Paragraph 11 of this Exhibit, from the Operating and Maintenance Account, immediately when such compensation is due and without regard to other Housing Center(s) obligations or expenses provided the Contractor has satisfactorily discharged all duties and responsibilities under this Agreement. Moreover, the

EXHIBIT C

Department, to the extent permitted by State law, hereby indemnifies Contractor and agrees to hold it harmless with respect to Housing Center(s) costs, expenses, accounts, liabilities and obligations during the term of this Exhibit and further agrees, to the extent permitted by State law, to guarantee to Contractor the payment of its compensation under Paragraph 11 of this Exhibit during the term of this Agreement to the extent that the Housing Center(s)'s Operating and Maintenance Account is insufficiently funded for this purpose. To the extent permitted by state law, intentional failure of the Department at any time to abide by and to fulfill the foregoing shall be a breach of this Agreement, entitling Contractor to obtain from Department, upon demand, and to the extent permitted by State law, full payment of all compensation owed to Contractor through the date of such breach and entitling Contractor, at its option, to terminate this Agreement forthwith.

14. Interpretive Provisions

- A. This Agreement and its Exhibits constitute the entire Agreement between the Department and the Contractor with respect to the management and operation of the Housing Center(s). No change shall be valid unless agreed upon by the Principal Parties, approved by RD and amended by the Department.
- B. This Exhibit has been executed in several counterparts, each of which shall constitute a complete original Exhibit, which may be introduced in evidence or used for any other purpose without production of any of the other counterparts.
- C. At all times, this Exhibit shall be subject and subordinate to all rights of RD, and shall work to the benefit of and constitute a binding obligation upon the Principal Parties and their respective successors and assigns. To the extent that this Exhibit confers rights upon the consenting parties, it shall be deemed to work to their benefit, but without liability to either, in the same manner and work with the same effect as though the consenting parties were primary parties to this Exhibit.

The Principal Parties (by their duly authorized officers) have executed this Management Agreement on the date first above written.

As lender or insurer of funds to defray certain costs of the project and without liability for any payments hereunder, Rural Development hereby concurs with this Management Agreement.

United States Department of Agriculture
Rural Development

By: _____
Title: _____
Date _____
: _____

EXHIBIT D

Sample Resolution

RESOLUTION NO. _____

RESOLUTION APPROVING THE 20____-20____ FISCAL YEAR OPERATION AND
MAINTENANCE CONTRACT BETWEEN THE STATE OF CALIFORNIA
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT AND THE
CITY/COUNTY OF _____
CONTRACT # ____-OMS-_____

WHEAREAS, the California Department of Housing and Community
Development has provided an Operation and Maintenance Contract for the 20____-20____ Fiscal
Year for the _____ Migrant Center; and

WHEAREAS, the County of _____, acting through its _____,
desires to approve this Operation and Maintenance Contract for the 20____-20____ operation of
the _____ Migrant Center.

NOW, THEREFORE, BE IT RESOLVED, the Board of Supervisors of the
County of _____ hereby approves the Operation and Maintenance Contract # ____
_OMS_____ in the amount of \$_____ and authorizes _____ to execute said
contract, and any amendments to said contract, on behalf of the County of _____.

PASSED AND ADOPTED this ____th day of _____, 20____, by the
following votes:

AYES: Supervisors: (NAMES)

NOES: Supervisors: (NAMES)

ABSENT: Supervisors: (NAMES)

_____, Chairperson
Board of Supervisors

County: _____

ATTEST: _____
Clerk of the Board

APPROVED AS TO LEGAL FORM
_____, County Counsel

By: _____
Deputy Clerk of Said Board

By _____

(SEAL)